

# UNITED STATES INTERNATIONAL TRADE COMMISSION

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In the Matter of:	)	
	)	Investigation No.:
POLYETHYLENE RETAIL CARRIER BAGS	)	731-TA-1043-1045
FROM CHINA, MALAYSIA, AND THAILAND	)	(Preliminary)
	)	

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Friday  
July 11, 2003

Room 101  
U. S. International  
Trade Commission  
500 E Street, SW  
Washington, D.C.

The preliminary conference commenced pursuant to Notice, at 9:30 a.m., before the Commissioners of the United States International Trade Commission, ROBERT CARPENTER, Director of Investigations, presiding.

APPEARANCES:

On behalf of the International Trade Commission:

Staff:

ROBERT CARPENTER, DIRECTOR OF INVESTIGATIONS  
LARRY REAVIS, INVESTIGATOR  
IRENE CHEN, ATTORNEY/ADVISER  
CRAIG THOMSEN, ECONOMIST  
CHARLES YOST, ACCOUNTANT  
LARRY JOHNSON, INDUSTRY ANALYST

In Support of the Imposition of  
Antidumping Duties:

On behalf of Polyethylene Retail Carrier Bag Committee  
and its individual members:

WILLIAM C. SEANOR, Managing Partner,  
Vanguard Plastics  
REX E. VARN, Division Vice President and General  
Manager/High Density Film Products Division,  
Sonoco Product Co.  
ISAAC BAZBAZ, Director, Superbag Corp.  
JONATHAN DILL, Chief Financial Officer,  
Ampac Packaging

Of Counsel:

JOSEPH W. DORN, Esquire  
STEPHEN A. JONES, Esquire  
King & Spalding, LLP  
Washington, D.C.

In Opposition to the Imposition of  
Antidumping Duties:

On behalf of Weifang Hongyuan Plastic Co., Ltd.; Lindqu  
Shunxing Plastic Co., Ltd.; Shanghai Overseas  
International Trading Co., Ltd.; Nantong Huasheng  
Plastic Co., Ltd.; Rongcheng Huaxu Packing Material  
Co., Ltd.; Ningbo Fanrong Plastic Products Co., Ltd.;  
Suzhou Fanda Plastic Co., Ltd.; Shanghai Glopac, Inc.;  
Nanjing Zhenwang Plastic Co., Ltd.; Shanghai New Ai  
Lian Import & Export Co., Ltd.; Want Want Group,  
Beijing Lianbin Plastics & Printing Co., Ltd.; Nanjing  
Yingtong Plastic & Rubber; Shanghai Yafu Plastic &  
Rubber Industrial Co., Ltd.; Weihai Weiquan Plastic &  
Rubber Products Co., Ltd.; Shanghai Light Industrial  
Products Import & Export Co., Ltd.; Xiamen Egret  
Plastic Co., Ltd.; Xiamen Mingbei Plastic & Rubber Co.,  
Ltd.; PDI Saneck; CPI Packaging; Progressive Sales;  
Elkay Plastics; MHI Group; and Glopac, Inc.:

ROBERT GUIDO, President, Progressive Sales  
STEVE GITLEN, Salesman, Glopac, Inc.  
IRWIN ABRAHAM, President, CPI Packaging  
FRANK CANNON, JR., President,  
PDI Saneck International  
LOUIS CHERTKOW, President and CEO,  
Elkay Plastics Co., Inc.  
JAMES LEU, Director of Operations, MHI Group

In Opposition to the Imposition of  
Antidumping Duties  
(continued):

Of Counsel:

WILLIAM E. PERRY, Esquire  
 RONALD M. WISLA, Esquire  
 Garvey Schubert Barer  
 Washington, D.C.

On behalf of Kal-Pac Corp. and Huang Jiang United Wah  
Plastic Bag Factory:

ALAN W. CREAIS, President, Kal-Pac Corp.  
 MAMORU (MIKE) NOZAWA, CEO, Kal-Pac Corp.

Of Counsel:

JEFFERY S. GRIMSON, Esquire  
 Grunfeld, Desiderio, Lebowitz, Silverman &  
 Klestadt, LLP  
 Washington, D.C.

On behalf of Thai Plastic Bag Industries Co., Ltd.;  
C.P. Packaging Industry Co., Ltd.; Thai Griptech Co.,  
Ltd.; K. International Packaging Co., Ltd.; and all  
other members of the industry in Thailand:

Of Counsel:

DENNIS JAMES, Esquire  
 VALERIE ELLIS, Esquire  
 Cameron & Hornbostel, LLP  
 Washington, D.C.

On behalf of Associated Merchandising Corp. (AMC):

JIM JOHNSON, Procurement Sourcing Group Lead for  
 Operating Supplies, Target Stores  
 JOHN J. VERRIER, JR., Managing General Partner,  
 Regal Import Packaging

Of Counsel:

GEORGE W. THOMPSON, Esquire  
 JOHN M. PETERSON, Esquire  
 Neville Peterson, LLP  
 Washington, D.C.

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P R O C E E D I N G S

(9:30 a.m.)

MR. CARPENTER: Good morning and welcome to the United States International Trade Commission's conference in connection with the preliminary phase of Antidumping Investigation No. 731-TA-1043 to 1045 concerning imports of polyethylene retail carrier bags from China, Malaysia, and Thailand.

My name is Robert Carpenter. I am the Commission's director of investigations, and I will preside at this conference. Among those present from the Commission staff are, on my right: Larry Reavis, the investigator; and on my left, Irene Chen, the attorney-adviser; Greg Thomsen, the economist; Charles Yost, the accountant; and I believe we will be joined by Larry Johnson, the industry analyst.

The purpose of this conference is to allow you to present your views with respect to the subject matter of the investigation in order to assist the Commission in determining whether there is a reasonable indication that a U.S. industry is materially injured or threatened with material injury by reason of imports of the subject merchandise.

We will start the conference with a five-minute opening statement from each side, beginning with the Petitioners. Following the opening statements, each side

1 will be given one hour for their direct testimony. The  
2 staff will ask questions of each panel after their  
3 presentation, but no questions from opposing parties will be  
4 permitted. At the conclusion of the statements from both  
5 sides, each side will be given 10 minutes to rebut opposing  
6 statements and make concluding remarks.

7 Speakers will not be sworn in; however, you are  
8 reminded of the applicability of 18 U.S.C. 1001, to false or  
9 misleading statements, and to the fact that the record of  
10 this proceeding may be subject to court review if there is  
11 an appeal. Additionally, speakers are reminded not to refer  
12 in their remarks to business-proprietary information and to  
13 speak directly into the microphones.

14 Finally, we ask that you each state your name and  
15 affiliation for the record before beginning your  
16 presentation.

17 Are there any questions?

18 (No response.)

19 MR. CARPENTER: If not, welcome, Mr. Dorn. Please  
20 proceed with your opening statement.

21 MR. DORN: Thank you, Mr. Carpenter. Joe Dorn  
22 with King & Spalding on behalf of Petitioners.

23 The articles subject to investigation in this case  
24 are polyethylene retail carrier bags from China, Malaysia,  
25 and Thailand. They are plastic bags with handles made from



1 polyethylene film that are used to package and carry  
2 purchased goods from retail establishments. They do not  
3 include bags without handles, such as produce bags or bread  
4 bags, nor do they include garbage bags or other bags that  
5 are sold to consumers for end uses other than carrying  
6 products from retail establishments.

7 As indicated in the Commerce Department's Notice  
8 of Initiation, the alleged dumping margins are very high  
9 from each of the three companies.

10 Our four industry witnesses will explain, this  
11 morning, why the domestic industry producing PRCBs is  
12 materially injured by reason of these dumped imports. The  
13 producers' questionnaire data are, of course, incomplete at  
14 this point and are confidential. I am confident, however,  
15 that the questionnaire data will confirm what you will hear  
16 from these witnesses today.

17 This industry is suffering a sharp fall in profits  
18 as it desperately tries to maintain market share in the face  
19 of increased dumped imports that are underselling domestic  
20 products by a very large margin. As you will hear from our  
21 industry witnesses, the imported products and the domestic  
22 products are very close substitutes. There are, of course,  
23 many styles and sizes of bags, ranging from the t-shirt  
24 style of bag that you receive at the local Safeway to an  
25 elegant, draw-string bag with printed logos that you receive

1 at a high-end specialty store.

2 At every point along the broad continuum of bag  
3 styles and quality, however, there is a domestic product and  
4 an imported product that match up and compete head to head  
5 on the basis of price. There is no place for domestic  
6 producers to hide. The imports are hurting them at all  
7 price points along the continuum. Domestic producers are  
8 being forced to choose between losing a sale to the dumped  
9 imports or lowering their prices to keep the business.  
10 Either way, they lose, and their damage is growing.

11 It is important to understand that the domestic  
12 producers in this industry need to run their production  
13 lines continuously to be profitable. Their plants are not  
14 designed to turn on and off like a TV set. They are  
15 intended to operate continuously virtually every day of the  
16 year. As a result, domestic producers are extremely  
17 vulnerable to lower-priced imports. If they do not meet the  
18 lower import prices, they will have to suspend production to  
19 avoid accumulating excess inventories.

20 Imports from the subject countries increased 45  
21 percent from 2000 to 2002 and another 18 percent from the  
22 first quarter of 2002 to the first quarter of 2003. They  
23 also increased relative to domestic production and apparent  
24 consumption. The imports have increasingly undersold  
25 domestic prices, forcing the decline in domestic producers'

1 unit shipment values, especially in 2002 and 2003. The  
2 pervasive underselling has also caused domestic producers to  
3 lose substantial sales and revenues to dumped imports, as is  
4 evidenced in the petition and in the questionnaire  
5 responses. In fact, the petition evidences lost sales of  
6 about \$300 million.

7 The combination of lower prices, lost sales, and  
8 higher per-unit fixed costs of remaining sales has had a  
9 very adverse impact on the bottom line, especially in 2002  
10 and 2003. Operating income and net profit had fallen  
11 sharply since 2001. Financial results in all of 2003 will  
12 be worse than in all of 2002.

13 In short, this industry has already suffered  
14 material injury, but the evidence shows that the worst is  
15 about to come. The rapid increase in imports, the pervasive  
16 underselling, and the substantial and growing capacity of  
17 the subject countries demonstrate that this industry is  
18 clearly threatened with additional material injury.

19 Among other things, it is significant to note that  
20 at least 24 foreign producers from China and Thailand have  
21 already entered an appearance in this investigation, and an  
22 unknown number of Malaysian producers have entered an  
23 appearance. They did so to fight for their access to the  
24 U.S. market. The evidence will show that producers in  
25 China, Malaysia, and Thailand are rapidly increasing

1 capacity and that their capacity additions are aimed at the  
2 U.S. market. If antidumping duties are not imposed, this  
3 industry will not survive. Thank you.

4 MR. CARPENTER: Thank you, Mr. Dorn. Mr. Perry?

5 MR. PERRY: Good morning. My name is William  
6 Perry of the law firm of Garvey, Schubert & Barer, and I'm  
7 here representing a number of the Chinese exporters and U.S.  
8 importers in this case. We firmly believe that there is no  
9 reasonable indication of material injury or threat of  
10 material injury in the case.

11 What I would like to do is just mention a few of  
12 the issues that my witnesses will be bringing up. There  
13 will be a whole host of witnesses, not only from the Chinese  
14 companies but from Thailand and also Target.

15 One of the key issues here is like product. The  
16 statement made by counsel on the other side really, I  
17 believe, is contradicted. We have two types of bags here.  
18 One bag is the automatic t-shirt bag, in which basically the  
19 handle is a part of the bag. This is the upscale bag, the  
20 one with the draw strings, the cardboard inserts, et cetera.  
21 Everything we've been told is this bag is not produced in  
22 the United States and competitively cannot be produced in  
23 the United States because most of this involves hand labor.  
24 Because it involves hand labor, the only way to produce this  
25 bag is in developing countries.

1           We have a whole bunch of Petitioners here who have  
2 related companies in developing countries like Mexico.  
3 Superbag has substantial operations in Mexico. PCL has  
4 substantial operations in Canada. They are all importing  
5 also. They are importing from subject countries and from  
6 nonsubject countries. Their attempt to widen the scope of  
7 this investigation is not to protect their domestic industry  
8 but to place the related operations overseas. As the  
9 Commission knows, the injury is to the U.S. domestic  
10 industry, not to an industry in Mexico, Colombia, Vietnam,  
11 Brazil, or anywhere else.

12           So one of the key issues is what do they produce,  
13 and what don't they produce in the United States? What can  
14 they produce, and what can't they produce in the United  
15 States?

16           We are also going to be talking about the petition  
17 as a whole. One of the key issues here is resin prices,  
18 raw-material costs. In their petition, they submitted  
19 information about resin costs in Asia, which are about 25 to  
20 27 cents a pound. What they didn't submit to you was the  
21 same information in the same report: The resin prices in  
22 the United States are 52 cents a pound. In other words, the  
23 prices of the raw material in the United States are twice as  
24 high as Asia. We submit that this is a substantial cause of  
25 any injury to the U.S. industry.

1           We also think that the pricing information in the  
2       questionnaire doesn't work. When you submitted your  
3       questionnaires to the importers, you asked for prices on  
4       per-thousand bags. The problem is you're going to receive  
5       back a lot of blanks because the bags are substantially  
6       different. There are substantial differences, slight  
7       differences, which means it makes it very difficult for the  
8       importers to respond. What is the common formula?  
9       Especially for these types of bags, it's price per pound,  
10      and the only way you're going to do an apples-to-apples  
11      comparison here is to work back to a price per pound.  
12      That's exactly what the importers do. That's what the  
13      Chinese exporters do. They work back to a price per pound,  
14      price per metric ton on these automatic types of bags.

15           We will also be talking about the recession. The  
16      recession has hit the entire industry, just like everybody  
17      else: bankruptcies, K-Mart going out. Bags are going out  
18      because retail sales are falling, and also, as the  
19      Commission knows, the statute provides that when there is a  
20      cyclical industry, the Commission must assess the industry  
21      within the context of the business cycle.

22           Another couple of points here: We will be talking  
23      about price. We firmly believe that the Chinese and the  
24      exporters are the price followers. The importers will be  
25      talking about that in detail, that the domestic companies

1 are fighting among themselves, and what the importers are  
2 doing is following the price.

3 Now, a couple of last two points: There is a  
4 reason for this recent upsurge in imports in 2003, and there  
5 are three reasons. One was the West Coast dock strike. As  
6 everybody knows that happened from October to November and  
7 caused an upsurge in imports in the first two months of 2003  
8 as people filled out their inventories.

9 Another reason was the Gulf War. Everybody was  
10 afraid, because of the Gulf War, resin prices would go up  
11 because it's a petrochemical; and, again, people imported  
12 bags before that.

13 And, finally, as some of you may not know, there  
14 was an up-tick in freight costs, a major up-tick on May 1st  
15 of this year, when the price of the container went up a  
16 thousand dollars. This caused also an increase in imports  
17 because people were trying to get it up before the freight  
18 costs increased.

19 Finally, again, imports. We firmly believe that  
20 if a dumping order is placed in this case, prices are not  
21 going up. Imports are coming in from a number of different  
22 sources, and these Petitioners are bringing them in, from  
23 Vietnam, Brazil, and other countries. We firmly believe  
24 that all that's going to happen here if the dumping order  
25 happens is a shift in changing to other sources, other

1 countries, to bring imports in. Imports are just going to  
2 be in this market forever, and in the case of these types of  
3 bags, they have to come in from other countries. Thank you  
4 very much. Let the show begin.

5 MR. CARPENTER: Thank you, Mr. Perry. Mr. Dorn,  
6 you can bring your witnesses up.

7 MR. DORN: Before introducing our industry  
8 witnesses, I would like to make a few preliminary comments  
9 about the scope of the petition, the definition of the  
10 domestic like product, and the import data that we're  
11 relying upon.

12 The imported articles subject to investigation are  
13 defined in the Commerce Department's Notice of Investigation  
14 to include t-shirt sacks, merchandise bags, grocery bags,  
15 check-out bags. More specifically, they include all  
16 nonsealable sacks and bags with handles, including draw  
17 strings which can serve as handles, with or without zippers  
18 or integral excluded closures, with or without gussets, and  
19 with or without printing, made of polyethylene film. These  
20 items are typically provided without any consumer packaging  
21 and free of charge by retail establishments to their  
22 customers to package and carry out their purchased products.  
23 They typically are printed.

24 Excluded from the scope of the case are imported  
25 bags that do not have handles and bags that are sold in



1 packaging with printing that refers to specific end uses  
2 other than carrying purchased merchandise, such as trash  
3 liners or long bags.

4 Now, the domestic industry produces all of the  
5 products in this broad continuum of retail carrier bags, and  
6 I'm going to show you some samples right now. At one end,  
7 we have various varieties of t-shirt sacks, and we have a  
8 small, medium, and large sample of t-shirt sacks that are  
9 being passed around. Next, we have bags that have oval and  
10 round handles, a different style of retail carrier bag.  
11 Those are being handed around right now. There are also  
12 bags with patched handles, wave-top bags, draw-tape bags,  
13 draw-string bags, soft-loop-handles bags, draw-cord, and  
14 shoulder-tote bags. And I'll just keep going as those  
15 samples are passed along.

16 The point I want to make is that the domestic  
17 producers make all of these bags. All of these bags that  
18 are being handed up are made either by the Petitioners or  
19 other companies in the United States that support the  
20 petition.

21 Now, with regard to the domestic like product,  
22 it's our position that the scope of the domestic like  
23 product is co-extensive with the scope of the imported  
24 articles subject to investigation. There is no basis for  
25 expanding the scope of the like product, and there is no

1 basis for subdividing the articles subject to investigation  
2 into multiple like products.

3 First, all PRCBs share the same essential physical  
4 characteristics. They are all made of polyethylene film,  
5 and they all have handles. They have distinctly different  
6 physical characteristics from paper bags, in that they are  
7 moisture resistant, more flexible and stretchable, weigh  
8 much less, take up much less space, are stronger, and they  
9 always have handles. Other types of polyethylene bags  
10 generally lack handles and printing, and their designs and  
11 sizes are dictated by different end uses.

12 Second, all PRCBs have the same essential use.  
13 They are sized and designed to carry purchased merchandise  
14 from retail establishments. Other PE bags have entirely  
15 different uses. Unlike PRCBs, other polyethylene bags are  
16 sold to consumers for specific end uses; they are not given  
17 away free of charge.

18 Third, all PRCBs are generally interchangeable  
19 across a broad spectrum of quality, sizes, and features.  
20 Retail establishments do not view PRCBs and paper bags to be  
21 interchangeable. They are distinct products that are  
22 sometimes offered side by side in grocery stores to give the  
23 customer a choice. A supplier would never offer a retailer  
24 a paper bag in response to a bid for PRCBs. The two  
25 products are not commercially substitutable. Similarly,

1 other PE bags, or polyethylene bags, are not interchangeable  
2 with PRCBs because they are designed and sized for entirely  
3 different uses.

4 Fourth, all PRCBs have the same channel of  
5 distribution that's unlike that for any other polyethylene  
6 bag; that is, PRCBs are purchased by retail establishments  
7 not for resale but in order to provide a service free of  
8 charge to their customers. Other polyethylene bags are  
9 purchased by retailers for resale to generate profits.  
10 PRCBs are a cost of doing business.

11 Fifth, producers, retail establishments, and  
12 retail customers view all PRCBs as a distinct product  
13 category. Unlike other polyethylene bags, PRCBs provide a  
14 service to retail customers; they are not a resale item.

15 Sixth, all PRCBs share common raw materials,  
16 production processes, and equipment. Paper bags are made  
17 with entirely different raw materials, production processes,  
18 and equipment. Other polyethylene bags are typically made  
19 in separate plants, are produced on separate production  
20 lines, do not have printing, and require less-skilled labor.

21 Seventh, with respect to price, a paper grocery  
22 bag costs a store over five times more than a polyethylene  
23 grocery bag and consumes much more warehouse space. At the  
24 retail, consumer level of trade, PRCBs typically have a  
25 price of zero. Other polyethylene bags are priced to make

1 the retailer a profit.

2 Finally, PRCBs are sold to retail establishments  
3 in bulk packaging, generally a thousand bags to the case.  
4 They are then offered to retail customers without any  
5 packaging. Other polyethylene bags are typically sold in  
6 much smaller units in consumer packaging.

7 And as our witnesses will explain, we make the  
8 bags that Mr. Perry was talking about, and we make bags that  
9 are competitive with the products that he was talking about.  
10 There is no gap in terms of what the domestic producers make  
11 or can make with respect to a comparison with the imports.

12 As you know, -- I'm turning now to the import data  
13 -- as you know, there are no official government import data  
14 that are specific to this product. The statistical  
15 category, 3923210090, covers not only PRCBs but also other  
16 polyethylene bags, such as produce bags, bread bags, and  
17 trash can liners. The consensus of Petitioners is that at  
18 least 75 percent of the imports entered under that  
19 statistical category from the subject countries are, in  
20 fact, PRCBs. If that estimate is off, we believe it is off  
21 on the low side, not on the high side.

22 In addition, our clients estimate that only 10  
23 percent of the imports from Canada and 15 percent of the  
24 imports from Mexico are PRCBs. For the remaining countries,  
25 we have made estimates of the shares of imports that are

1     PRCBs based on the average unit values and our clients'  
2     market intelligence.

3             Prior to initiation, we provided the Commerce  
4     Department with affidavits providing further explanation and  
5     support for import estimates. We will provide copies of  
6     those affidavits with our post-conference brief.

7             We hope that the Commission will receive full and  
8     complete responses to the importers' and foreign producers'  
9     questionnaires with respect to the import data. To the  
10    extent that such responses are incomplete, however, the  
11    Commission should draw inferences adverse to the importers  
12    and foreign producers and use the Petitioners' estimates of  
13    imports as facts available.

14            Our first industry witness will be Bill Seanor.

15            MR. SEANOR: Good morning. I'm Bill Seanor. I'm  
16    one of two managing partners of Vanguard Plastics, which is  
17    headquartered in Dallas, Texas. I am here today on behalf  
18    of my partner and our 750-plus employees who manufacture and  
19    market polyethylene retail carrier bags at Vanguard's six  
20    production facilities located throughout the United States.

21            My partners and I founded Vanguard in 1987, with  
22    two converting lines in St. Louis, Missouri. In the last 15  
23    years, Vanguard has grown into one of the largest producers  
24    of polyethylene retail bags in the world, and with 70  
25    converting lines and the capacity to produce approximately

1 20 billion bags per year. Vanguard is very proud of its  
2 growth and success, but I am here today because Vanguard has  
3 been severely injured, and its very existence is threatened  
4 by dumped imports from China, Malaysia, and Thailand.

5 The process for making polyethylene bags is  
6 generally the same everywhere in the world. The process  
7 consists of the following steps. First, polyethylene resins  
8 and color concentrates, such as the samples we brought with  
9 us today, are blended and injected into an extruder, where  
10 the resin mixture is extruded into film. I'm handing you up  
11 some samples of the raw material in its raw form.

12 Secondly, the film is wound into mill rolls and  
13 fed into a printer, where a custom design or textual message  
14 is printed on the film.

15 Third, the film is converted into bags by cutting  
16 the film into the desired size and shape and heat sealing  
17 the open ends.

18 Finally, the finished bags are inspected,  
19 packaged, and placed in inventory.

20 Manufacturers in China, Malaysia, and Thailand use  
21 the same raw materials, employ generally the same production  
22 processes, and use similar production machinery as producers  
23 in the United States. Imported bags from these countries  
24 and U.S. production are nearly perfect substitutes. As a  
25 result, competition between imports and U.S. production is

1 based primarily on price.

2 Let me show you some samples. 7-Eleven Stores:

3 We have samples here, both representing products made by  
4 Vanguard in its domestic facilities and a Chinese import.

5 Winn-Dixie Grocery Stores: Samples from China, Malaysia,  
6 and Thailand. Target Stores: Bags produced in China,  
7 Thailand, and at Vanguard's plants.

8 As you can see, these products are identical.

9 Under these circumstances, producers choose the product with  
10 the lowest price. Dumped imports can quickly penetrate the  
11 market and grab market share when competition is based  
12 primarily on price.

13 The manufacture of polyethylene bags cannot be  
14 efficiently increased or decreased simply by turning the  
15 machinery on and off. Similar to continuous production  
16 processes employed by the steel and glass industries, the  
17 extrusion process cannot be economically shut down at night  
18 and restarted in the morning. It only works effectively if  
19 we run 24/7. Our plants have traditionally run in excess of  
20 360 days per year.

21 The production process is capital intensive for  
22 the domestic producer. Therefore, the producer must operate  
23 at a high level of capacity utilization to achieve the  
24 lowest-possible, unit fixed cost. Therefore, when faced  
25 with competition from dumped imports, U.S. producers must

1     reduce their prices and attempt to meet the much lower,  
2     dumped prices from China, Malaysia, and Thailand In order to  
3     maintain production volume.

4             As dumped imports have flooded the U.S. market,  
5     Vanguard is now competing head on head with imports from  
6     China, Malaysia, and Thailand for virtually every sale.  
7     Purchasers understand that imports give them an opportunity  
8     to get an identical product for a lower cost. As a result,  
9     they use the availability of low-priced imports as a way to  
10    force U.S. producers to lower their prices.

11            Vanguard has steadily lowered its prices in an  
12    attempt to maintain volume and avoid losing customers.  
13    Unfortunately, we have lost numerous sales because we are  
14    unable to lower our prices enough to meet dumped import  
15    prices. We have been able to lower prices enough to retain  
16    many of our customers, but we have lost substantial revenue  
17    on those sales, and our profitability has deteriorated.  
18    Declining profitability has hindered our ability to invest  
19    in the future of the business and grow to meet what we  
20    believe will be an increasing demand for polyethylene retail  
21    bags.

22            Dumped imports have prevented us from benefiting  
23    from the growth in the market and are crippling our ability  
24    to compete in the future. In 2001, our inability to compete  
25    with dumped imports from China, Malaysia, and Thailand



1 forced us to close our plant in Compton, California, and lay  
2 off 50 employees. We are very concerned that deteriorating  
3 market conditions will force us to close more plants and lay  
4 off more employees.

5 From 1997 through 2001, Vanguard made over \$65  
6 million in capital investments to expand its capacity and  
7 improve its competitive cost structure. This capital  
8 program was the third major upgrade during Vanguard's 15-  
9 year history. Each of these programs was designed to keep  
10 Vanguard at the leading edge of cost-effective producers.

11 For 2002 and forecasted to 2003, our capital  
12 investments will average less than \$3 million a year, well  
13 below prior years. The reduction is due to lower-than-  
14 anticipated growth in sales, correspondingly lower capacity  
15 utilization, and decreasing profits.

16 Vanguard has been very successful since its  
17 founding in 1987. We can compete with anyone on a level  
18 playing field. However, Vanguard cannot compete with dumped  
19 imports from China, Malaysia, and Thailand. If antidumping  
20 duties are not imposed on these imports, we will ultimately  
21 be forced out of business. Thank you.

22 MR. VARN: Hello. My name is Rex Varn, and I'm  
23 vice president and general manager of the high-density film  
24 division with Sonoco Products Company. Since joining Sonoco  
25 in 1980, I've spent all but six years in positions where

1 I've been involved with the production and sale of  
2 polyethylene retail carrier bags.

3 Sonoco has been producing t-shirt-style, plastic  
4 bags since 1980. Starting with one plant, we grew to six  
5 plants in 1989 and now operate five plants that employ about  
6 700 employees. We consider polyethylene retail carrier bags  
7 to be a distinct product. Four of our five plants produce  
8 this product almost exclusively. In all of our plants, the  
9 production lines for PRCBs are dedicated to the production  
10 of that product. The produce bags that we produce; they do  
11 not have handles and, thus, are not included within the  
12 scope of this case, and they, too, are run on distinct  
13 production lines.

14 Dumped imports from China, Malaysia, and Thailand  
15 have seriously injured our t-shirt bag operations. The  
16 foreign producers in those countries have used unfairly low  
17 prices to compete for our customer base. The imported  
18 products are virtually identical to our domestic products,  
19 as you can see from the samples that we're passing around  
20 right now. I have four individual samples. The Staples bag  
21 would be our product. The bag -- Western Beef is the title  
22 on that -- that's from Thailand. Winn-Dixie bag is from  
23 Malaysia, and the Key Food bag is from China.

24 The imports' rapid penetration of the U.S. market  
25 is due, as Bill said, entirely to low prices. In the face

1 of the increasing low prices of imports, we can either  
2 maintain our prices and lose sales, market share, and  
3 production output, or we can lower our prices to meet the  
4 import prices. Either way, we lose, but our heavy  
5 investment in plant and equipment motivates us to lower  
6 prices to maximize our production output.

7 Our plants are intended to operate 24 hours a day,  
8 seven days a week, for virtually the entire year.  
9 Traditionally, we only close four days at Christmas and two  
10 days at Thanksgiving. Otherwise, we expect the plants to  
11 continuously operate in order to spread our fixed costs over  
12 as many production units as possible. Thus, we have a  
13 strong economic incentive to meet the import prices to  
14 maintain our optimal production levels.

15 This year, however, we have already had to shut  
16 down our plant four days over Memorial Day, and we took a  
17 six-day shutdown over the Fourth of July because of  
18 increasing inventories that could not be sold in the face of  
19 the increased imports. This is unprecedented for our  
20 industry or for our company.

21 The first major casualty of these low-priced  
22 imports was our plant in Santa Maria, California. In July  
23 of 2002, we were forced to shut down that plant, which only  
24 made the plastic bags at issue, and lay off approximately  
25 100 employees. Our closing of that plant was a direct

1 result of the influx of dumped imports which landed at the  
2 nearby West Coast ports and quickly eroded our West Coast  
3 customer base. In fact, the Department of Labor came in and  
4 certified the workers at that plant for trade-adjustment  
5 assistance. The department's survey of our customers  
6 confirmed the increase of the imported bags that they were  
7 buying at that time.

8           The extrusion and printing equipment from that  
9 Santa Maria plant can produce about 1.8 billion bags per  
10 year. Most of that equipment is sitting in a warehouse  
11 today because we cannot justify the investment required to  
12 restart this equipment on existing floor space in our  
13 remaining factories. Because of the dumped imports, we are  
14 not utilizing all of our existing capacity. We certainly  
15 cannot sell another billion bags of production at a  
16 reasonable price unless the dumping is stopped.

17           Sonoco has done all we can to become cost  
18 competitive with the imports. Over the last two years, we  
19 have invested over \$15 million to automate and modernize our  
20 production facilities and to reduce our costs. We invested  
21 to become as efficient as we can with fewer machines in  
22 operation by installing the highest bag lines available.  
23 These investments have been successful in lowering our cost  
24 of production, as we had hoped they would. In fact, I  
25 believe our plants are the most automated and efficient in

1 the world. Unfortunately, however, price competition with  
2 the dumped imports has forced us to pass along all of the  
3 cost savings to our customers in order to maintain our sales  
4 volume.

5 As indicated in the petition and our questionnaire  
6 response, we lost significant sales and had to reduce our  
7 prices on other sales as a result of these dumped imports.  
8 The combination of lower prices, reduced sales volume, and a  
9 higher per-unit fixed cost has had a very negative effect on  
10 our bottom line. Also shown in the questionnaire response,  
11 our operating profit is dropping sharply. The last data is  
12 for the first quarter of 2003. However, our operating  
13 income continued to decline in the second quarter of this  
14 year, and we expect our annual operating income in all of  
15 2003 to be substantially lower than 2002, which was well  
16 below our 2001 profit levels.

17 If these trends continue, Sonoco will be forced to  
18 close more of our U.S. plants, and if import relief is not  
19 imposed, these trends are certain to continue. Capacity is  
20 rapidly expanding in China, Thailand, and Malaysia. The  
21 capacity additions are aimed at the U.S. market. In  
22 contrast, U.S. producers have made no significant additions  
23 to capacity in the last two years. No one could justify  
24 capacity addition today, given the prices of the imports.  
25 In fact, the dumped imports are causing a gradual

1       disinvestment in U.S. capacity.

2               If antidumping duties are not imposed, Sonoco will  
3       not be able to maintain our existing U.S. assets and save  
4       our remaining 700 U.S. jobs. If antidumping duties are  
5       imposed, and fair market conditions are restored, we should  
6       be able to expand capacity and add U.S. jobs in line with  
7       the growing U.S. market. Thank you.

8               MR. BAZBAZ: Good morning. My name is Isaac  
9       Bazbaz. I am, and have been, a director of Superbag Corp.  
10       since its inception in 1988. Headquartered in Houston,  
11       Texas, Superbag is a family-owned, private company. We're a  
12       major U.S. producer of t-shirt-style, polyethylene carrier  
13       bags. We operate a single plant, with three independent  
14       modules dedicated to this product. The plant employs  
15       approximately 250 workers.

16              Dumped imports of t-shirt-style bags have caused  
17       tremendous harm to Superbag, and they are threatening to put  
18       our manufacturing company out of business if antidumping  
19       duties are not imposed. Most of our bags are tabless, self-  
20       opening bags, which are easily dispensed at the retail  
21       check-out counter. As one bag is removed from the  
22       dispensing rack, a next adjacent bag is opened.

23              We received a patent in 1993 for our design for  
24       this type of bag, but our design has been copied by  
25       producers in Thailand, China, and Malaysia.

1           I have handed up a sample of our product, a sample  
2   from Thailand by Thai Plastics, a sample made in China and  
3   imported by Mong Industries, and a sample made in Malaysia.  
4   As you can see, they are virtually identical. As a matter  
5   of fact, Superbag filed a complaint against Thai Plastics,  
6   Mong Industries, and others with the ITC under Section 337 a  
7   few months ago alleging patent infringement, and a Section  
8   337 investigation is now in progress.

9           Target Stores used to be one of our major  
10  customers. In October of 2001, however, Target held a  
11  reverse Internet auction in which it invited importers to  
12  bid. We were one of Target's incumbent suppliers, and we  
13  had sold them substantial quantities during May of 2000 to  
14  September 2001. We tried to keep the business by  
15  aggressively lowering our pricing during the auction. In  
16  the end, however, we could not afford to match the prices of  
17  the imports from China and Thailand because they were below  
18  our cost of production. Thai Plastics and Mong Industries  
19  won most of the business by offering bags essentially  
20  identical to ours but at prices that were much lower than  
21  our starting bid.

22           Earlier, in 2001, we had ordered bag machines for  
23  delivery in 2002 that would have allowed us to increase  
24  capacity by roughly 1.8 billion bags. When we lost the  
25  Target account and other sales to imports, we canceled the

1 order with our vendor because we no longer needed to expand  
2 our capacity.

3 Today, we supply our tabless, t-shirt-style,  
4 retail carrier bags to certain distribution centers of our  
5 largest customer. When we tried to increase our price to  
6 that customer earlier this year to pass along the full  
7 increase of our cost of resin, the customer told us that if  
8 we did so, he would shift the business to imports. In fact,  
9 we understand that this customer has recently invited  
10 numerous companies, including Asian producers, to bid for  
11 the business. If we lose that account and others, as we  
12 lost the Target account, our survival as a manufacturing  
13 company will be severely threatened.

14 Our inability to match the imports' lower prices  
15 is frustrating because we have very modern and cost-  
16 efficient facilities. Our equipment is among the newest and  
17 most automated in the United States. For example, we employ  
18 highly efficient, four-bags-across production lines. We  
19 have an efficient and trained work force housed in a single,  
20 multimodule plant that is dedicated to the production of t-  
21 shirt-style, retail carrier bags.

22 Moreover, we have recently invested to reduce our  
23 production costs. By early 2001, we successfully completed  
24 an investment program that substantially reduced our cost of  
25 converting resin into finished goods. Even so, our



1     profitability has dropped since 2001 due to sales and  
2     revenues lost to dumped imports. As a result, the rate of  
3     return on our investment diminished in 2002 and will be  
4     further reduced in 2003.

5             The lost sales are also adversely affecting our  
6     plant efficiency. Our equipment is designed to run  
7     continuously. It is very expensive to stop and resume  
8     operations. Normally, we only shut down on Christmas Eve  
9     and on Christmas Day, on New Year's Eve and New Year's Day.  
10    Otherwise, we run our plant continuously. We currently are  
11    running our lines more slowly than desired, and we have had  
12    to stop production altogether for three days in April, three  
13    days in May, and three days in July in order to avoid  
14    building up excess inventories.

15            With a growing U.S. market and a modern, automated  
16    plant, we should be investing to increase capacity and  
17    adding new jobs. We could significantly increase our output  
18    by running our machines at normal speeds. In addition, the  
19    machines that we ordered in 2001 are still available upon 30  
20    days' notice. We have ample factory floor space and  
21    available employees to man those machines. All we need is  
22    the sales volume and prices to warrant investment. Rather  
23    than investing to increase capacity and to grow our company  
24    in tandem with the growing U.S. market, we are just trying  
25    to survive.

1           As you will see from our questionnaire response,  
2   our profits are declining sharply. In the first quarter of  
3   this year, we were still able to make some profit because we  
4   were able to use some of the resin inventories that were  
5   purchased at lower prices in the prior year. As we have  
6   been forced to buy resin in 2003 at higher prices, we have  
7   suffered lower margins because our customers have refused to  
8   accept price increases, given the lower prices available  
9   from the subject countries.

10           Our profit was worse in the first half of this  
11   year than the first half of 2002. We have no reason to  
12   expect that profits will improve in the second half of the  
13   year. To the contrary, we expect 2003 to be a lot worse  
14   than 2002.

15           In short, our continued existence as a  
16   manufacturer is extremely vulnerable to dumped imports. Our  
17   future depends on the imposition of antidumping duties  
18   against imports from China, Malaysia and Thailand. If the  
19   imports are fairly priced, I am certain that we will be able  
20   to compete and to maintain our 250 jobs.

21           MR. DILL: Good morning. My name is John Dill.  
22   I'm the chief financial officer of Ampac Packaging LLC in  
23   Cincinnati, Ohio.

24           At present, Ampac Packaging is a packaging company  
25   with revenues of around 100 millions and employees of around

1     500. The company was founded in the 1960s and produced only  
2     PRCBs through the 1970s, '80s and '90s. Beginning in 2000,  
3     at about the same time that low-priced imports of  
4     polyethylene retail bags started to flood the U.S. market,  
5     Ampac diversified into paper retail packaging.

6             In 2002, Ampac reluctantly opened a PRCB  
7     manufacturing facility in Nanjing, China, purely as a  
8     defensive measure against import competition.

9             Ampac has been and is currently being injured by  
10    dumped imports and supports the imposition of antidumping  
11    duties on imports of PRCBs from China, Malaysia and  
12    Thailand.

13            Frankly, the shareholders of Ampac, including  
14    myself, would likely be adversely by the imposition of  
15    duties in that we would lose our investment in China.  
16    However, we support the petition because we're a domestic  
17    producer and we have been injured by dumped imports and the  
18    pricing in the market is unjustifiably low, in some cases,  
19    below that of our raw materials alone.

20            As a manufacturer of both plastic and paper retail  
21    carrier bags, Ampac is in a unique position to comment on  
22    the domestic like product definition. Polyethylene retail  
23    carrier bags and paper retail carrier bags are completely  
24    different products produced by different industries. We  
25    have obvious differences in physical characteristics and,

1     although the two types can sometimes be used for the same  
2     applications, they are not substitutable if the end user  
3     wants a bag with the properties and performance  
4     characteristics of polyethylene. For example, customers  
5     generally perceive paper bags as higher quality, but they  
6     are not as weather resistant or as landfill friendly as  
7     polyethylene bags.

8             Paper bags are also five to ten times bulkier and  
9     often cannot be stored effectively under store counters due  
10    to the limited space at retail.

11            Paper bags are significantly heavier per unit,  
12    which makes them much more expensive to ship. The  
13    manufacturing process and equipment for the two products are  
14    significantly different. Equipment used to make paper bags  
15    cannot be used to make plastic bags and vice versa. We  
16    manufacture these two types of bags at different facilities.  
17    There is no overlap of production equipment. Finally, paper  
18    bags cost significantly more to produce and are more  
19    expensive than polyethylene bags.

20            With regard to polyethylene bags, we do not  
21    manufacture T-shirt sacks. We specialize in polyethylene  
22    drawstring, oval die cut and patch handle bags. Although  
23    Ampac represents the upper end of the spectrum of PRCBs,  
24    these different styles of polyethylene bags are all part of  
25    the same class of products. There is no way to separate the

1 different types and styles of bags in this industry.

2 In our opinion, the domestic industry produces or  
3 is capable of producing any type and style of polyethylene  
4 bag imported from China, Malaysia and Thailand. Ampac is  
5 being severely injured by imports of PRCBs, especially  
6 during 2002 and the first part of this year. Producers in  
7 China, Malaysia and Thailand manufacture bags that are  
8 virtually identical to the bags that we make in our plant.  
9 For example, we are going to pass around right now two bags,  
10 same customer, just one produced in the U.S. and one  
11 produced in China.

12 I am also going to pass around some drawstring  
13 bags just so you see samples of the oval die cut and  
14 drawstring, but, again, the same situation.

15 As you can see, the subject imports and domestic  
16 production are perfect substitutes. We are competing head  
17 to head with imports in virtually every one of our accounts.  
18 The Chinese, Malaysian and Thai producers have the  
19 capability to produce any type of bag and any type of  
20 design.

21 Imports are taking sales from Ampac based on  
22 price, not differences in quality, design or style, as you  
23 can see from those bags.

24 One thing that is important to most of our  
25 customers is the quality of the printing. We can print up

1 to eight colors, as can several other U.S. producers.  
2 Chinese, Malaysian and Thai producers have the capability to  
3 print bags with quality that is identical to U.S. producers.

4 The printing on the samples that I've brought are  
5 a good illustration of the comparability of the Chinese and  
6 U.S. printing capabilities. As you can see, the quality of  
7 the printing on these products is virtually identical.

8 Again, subject producers have targeted our  
9 customers and are quoting ridiculously low prices, again,  
10 below the cost of our raw materials in some cases. There is  
11 no legitimate justification for such pricing. Obviously, we  
12 cannot compete with such low prices. As a result, we have  
13 lost accounts to imports from China. In addition, we have  
14 been forced to reduce our prices because of competition from  
15 subject imports.

16 Our lost sales and revenues to imports have had a  
17 predictable impact on our financial results. Our  
18 profitability is declining, particularly during 2002 and the  
19 first par of 2003. It looks like the full year 2003 will be  
20 worse than 2002. We have invested in our plant and  
21 equipment based on our expectation that demand would be good  
22 and our sales would grow. We are now very concerned that we  
23 will not achieve the anticipated return on our investments.  
24 If the trend continues, we will be forced to redirect our  
25 investments to our operations in China and source more and

1 more merchandise offshore. Ultimately, we could be forced  
2 to cease our domestic production all together.

3 Thank you very much.

4 MR. JONES: Good morning. My name is Steve Jones.  
5 I'm from King & Spalding. I would like to discuss this  
6 morning the issues of cumulation, injury, threat of injury  
7 and causation.

8 The commission should cumulate subject imports  
9 from China, Malaysia and Thailand in assessing injury,  
10 threat of injury and causation in this investigation. The  
11 statute requires the commission to cumulatively assess the  
12 volume and effect of imports of subject merchandise from all  
13 countries with respect to which the petitions were filed on  
14 the same day and if imports from the different countries  
15 compete with each other and with the domestic like product  
16 in the U.S. market.

17 Those requirements for cumulation are satisfied in  
18 this case. First, petitions against imports from China,  
19 Malaysia and Thailand were all filed on the same day, June  
20 20, 2003. Second, imports from the subject countries  
21 compete against one another and against domestic like  
22 product. Subject imports and the domestic like product, as  
23 you can see from the samples we've shown you, are excellent  
24 substitutes. They are marketed through common channels of  
25 distribution. They are sold in the same geographic markets

1 across the country and are present in the U.S. market  
2 simultaneously.

3 Accordingly, because subject imports compete with  
4 each other and with the domestic like product, the ITC  
5 should cumulate subject imports in analyzing whether subject  
6 imports are causing or threatening to cause material injury  
7 to the domestic industry.

8 The domestic industry producing polyethylene  
9 retail carrier bags is materially injured by reason of  
10 dumped imports from China, Malaysia and Thailand. As  
11 Mr. Dorn stated in his opening, the industry is also  
12 threatened with imminent further injury by reason of such  
13 imports. The volume of cumulated subject imports  
14 significant relative to U.S. consumption and U.S.  
15 production. The 2002 subject imports equalled approximately  
16 40 percent of domestic production and 30 percent of domestic  
17 consumption. Moreover, the subject imports accounted for  
18 approximately 75 percent of imports from all countries in  
19 2002.

20 The increase subject imports is also significant.  
21 Subject imports increased by 45 percent from 2000 to 2002  
22 and by another 18 percent from January-March 2002 to  
23 January-March 2003. The most significant increase occurred  
24 from 2001 to 2002 when subject imports jumped by 26 percent  
25 in just one year. As discussed in the petition, the subject



1 imports' share of domestic consumption and domestic  
2 production also increased from 2000 to 2002.

3 Apparent domestic consumption has increased  
4 moderately during the period of investigation, with subject  
5 imports having increased at a much faster rate.  
6 Accordingly, subject imports' share of apparent domestic  
7 consumption has increased while the domestic industry's  
8 share of apparent domestic consumption has declined. The  
9 industry is losing market share to subject imports and that  
10 trend is accelerating.

11 As the industry witnesses testified this morning,  
12 subject imports and domestic production are excellent  
13 substitutes. Subject imports compete head to head with  
14 domestic production for virtually every sale in the U.S.  
15 There is domestic production that competes with every type  
16 and style of bag imported from the subject countries.  
17 Because the products are highly substitutable, indeed, as  
18 demonstrated by the samples displayed this morning, in many  
19 cases they are identical, competition in this market is  
20 based primarily on price. The conditions of competition in  
21 the market highlight the importance of price and enhance the  
22 ability of dumped imports to penetrate the market and cause  
23 injury by underselling domestic producers.

24 As you heard this morning, domestic producers have  
25 been forced to lower their prices in an attempt to compete

1 with subject imports. As Mr. Seanor testified, high fixed  
2 costs create a strong incentive for domestic producers to  
3 lower their prices to maintain their sales volume and keep  
4 their plants running at maximum possible utilization rates.  
5 Due to this incentive, the industry's shipment volume  
6 increased slightly during the period of investigation. The  
7 harmful effect of imports is clearly seen, however, in the  
8 industry's shipment values, which have declined, especially  
9 from 2001 to 2003.

10 Moreover, the average unit value of shipments has  
11 declined, demonstrating the industry's response to dumped  
12 imports thus far to lower the prices in attempt to maintain  
13 production volume.

14 As market prices have declined, the volume of  
15 imports has increased. The sharpest drop in the industry's  
16 unit value shipments and profitability occurred from 2001 to  
17 2002, precisely at the same time that subject import volume  
18 increased most significantly. There is a direct causal  
19 relationship between the significant increase in the volume  
20 of subject imports and the increasingly aggressive pricing  
21 of those imports and the sharp decline in the industry's  
22 performance.

23 In many instances, domestic producers have not  
24 been able to reduce their prices enough to keep the business  
25 and they have lost business to dumped imports. Lost sales

1 reported by the five U.S. producers in the petitioning group  
2 total almost \$300 million. In many instances, domestic  
3 producers have been able to keep the business by lowering  
4 their price, which has allowed them to maintain their sales  
5 volume. Of course, that is merely a short-term fix and not  
6 a viable strategy. Lower prices lead inexorably to lower  
7 profitability.

8 Dumped imports have prevented domestic producers  
9 from making price increases necessitated by increased costs  
10 such as when polyethylene resin costs increased during the  
11 first quarter of 2003. The availability of dumped imports  
12 prevented the possibly of contract renegotiations under  
13 these circumstances. Domestic producers have reduced their  
14 costs and improved their productivity as much as possible,  
15 but these gains have not been nearly enough to offset the  
16 decline in prices. Accordingly, the financial impact of  
17 dumped imports has been severe.

18 The impact of dumped imports on employment in this  
19 industry also has been dramatic. Several plants have been  
20 closed because of import competition and hundreds of  
21 employees lost their jobs. In addition to Sonoco and  
22 Vanguard, which, as you heard this morning, were forced to  
23 close plants during the period of investigation because of  
24 low priced importers, press reports indicate that Orange  
25 Plastics' Trinity Packaging and ENE have also recently

1 closed plants and laid off employees.

2 As Mr. Varn testified, the workers Tucker Act  
3 Sonoco's in Santa Maria, California were certified by the  
4 U.S. Department of Labor for federal trade adjustment  
5 assistance based on Labor's conclusion that competition from  
6 increased imports contributed importantly to declines in  
7 Sonoco's sales and the resulting lay offs.

8 Several other companies, including Placine  
9 International, have recently filed for protection under  
10 federal bankruptcy laws. To the extent that domestic  
11 producers who are in bankruptcy or have closed their plants  
12 did not respond to the commission's domestic producer  
13 questionnaire, the industry data will understate the  
14 magnitude of injury because it will include only the data of  
15 the companies that have survived.

16 The industry witnesses testified the market  
17 situation is impeding the domestic industry's ability to  
18 invest in process improvements or new plant and equipment.  
19 Planned investments have been canceled or put on hold  
20 indefinitely because the market situation does not justify  
21 new capital expenditures. Dumped imports have prevented  
22 domestic producers from increasing their production in  
23 tandem with the increasing demand for polyethylene retail  
24 carrier bags in the U.S. market.

25 At a time when the industry's profitability should

1 be increasing and domestic producers should have been able  
2 to invest in their plant, equipment and people, dumped  
3 imports have taken sales volume, depressed prices and caused  
4 the industry's profitability to erode. As a result, instead  
5 of being in a position of strength and ready to capitalize  
6 on the market growth, domestic producers are just trying to  
7 survive. There is no question that the industry has been  
8 injured by dumped imports from China, Malaysia and Thailand.

9 In addition to the present material injury  
10 experienced by this industry, the industry is also  
11 threatened with further imminent material injury by reason  
12 of subject imports. Production capacity in the subject  
13 countries is significant and indicates a likelihood of  
14 substantially increased imports of the subject merchandise  
15 into the U.S. The industries in these countries are export  
16 oriented and much of the increased capacity has been  
17 directed at the U.S. market. Moreover, there are  
18 significant new capacity expansion projects planned in the  
19 near future.

20 China alone has enough production capacity right  
21 now to supply the entire U.S. market for polyethylene retail  
22 carrier bags. What is especially alarming, however, is that  
23 industry analysts have estimated that China's exports of  
24 polyethylene bags will almost double by 2005. It is  
25 reasonable to conclude that a significant portion of this

1 new volume will be directed at the U.S.

2           There are dozens of polyethylene retail carrier  
3 bag producers in China. The Chinese industry is highly  
4 fragment. That does not mean, however, that Chinese  
5 producers are just small mom and pop shops manufacturing  
6 niche products. There are very large producers in China  
7 such as Zhu-hi Zong Hu Plastic Bag Works, which has the  
8 capacity to produce 18 billion bags per year and actively  
9 competes for the business of the largest U.S. customers.  
10 This company has roughly the same capacity as the largest  
11 U.S. producers. Zhu-hi Zong Hu boasts on its web site that  
12 it is one of the largest producers in Asia and that its  
13 production capacity is "increasing annually."

14           In Thailand, the largest producer is Thai Plastic  
15 Bag Industries or TPBI, which has the capacity to produce  
16 approximately 16 billion bags per year. TPBI also has  
17 sufficient capacity to supply the largest U.S. accounts.  
18 According to its web site, TPBI's capacity increased by  
19 20 percent earlier this year, from 13 billion bags per year  
20 to 16 billion bags per year. TPBI supplies bags to Target  
21 and competes against domestic producers for other large U.S.  
22 accounts. TPBI's new capacity is also likely to be directed  
23 at the U.S.

24           Another Thai producer, Universal Poly Bag, was  
25 founded in 2001 and is the wholly-owned affiliate of

1     Advanced Poly Bag, Inc. or API, which is a U.S. producer  
2     headquartered in Metairie, Louisiana. API has admitted  
3     publicly that Universal Poly manufactures bags that are  
4     identical to API's U.S. production and 100 percent of the  
5     output of the plant in Thailand is intended to be sold in  
6     the U.S. and Canada. API is clearly a related party. The  
7     commission should also find that API's primary interest lies  
8     in importation and exclude its data from the domestic  
9     industry.

10             In Malaysia, there is also significant current  
11     production capacity and published plans to significantly  
12     expand capacity. As detailed in the petition, the six  
13     Malaysian companies that the petitioners are aware of have  
14     current capacity to produce almost 40 billion bags per year.  
15     All of these companies have ambitious expansion plans. One  
16     of these, B. Leon, has announced a program to add an  
17     additional 9 billion bags of capacity.

18             Based on this evidence, the commission should  
19     conclude that there is substantial existing unused  
20     production capacity in the subject countries and that  
21     subject producers are implementing ambitious expansion  
22     programs that will create substantial new capacity in the  
23     near future. Thus, available evidence provides a strong  
24     indication that substantial increased in the volume of  
25     subject imports are likely in the near future.

1           Given the significant and rapid increase in  
2     subject imports, there are strong grounds to believe that  
3     imports will continue to accelerate in the near future. The  
4     volume of subject imports increased by 45 percent from 2000  
5     to 2002, by another 18 percent from January-March 2002 to  
6     January-March 2003. The April 2003 import data are  
7     available, were not included in the petition but have become  
8     available since then and show that subject imports were 41  
9     percent higher in April 2003 than in April 2002.

10           This accelerating rate of increase in the volume  
11    of imports, especially during the first four months of this  
12    year is a strong indication that the industry is threatened  
13    with further material injury in the near future.

14           The rapidly declining prices of subject imports  
15    also indicate a severe threat to the domestic industry.  
16    Subject imports have had and are likely to continue to have  
17    a significant depressing effect on domestic prices and are  
18    likely to increase demand for further dumped imports.  
19    Subject imports are winning market share by dumping and they  
20    are likely to continue to do so in the near future.

21           Finally, as you heard this morning from the  
22    industry witnesses, this industry is extremely vulnerable to  
23    continued material injury by reason of dumped imports. As  
24    the industry witnesses have testified, they cannot simply  
25    shut down their machines and wait for market conditions to



1     improve. They must keep their plants running. This creates  
2     a strong incentive to reduce prices to match the prices  
3     quoted by dumped imports, but these prices are increasingly  
4     below cost. Domestic producers that continue to lower their  
5     costs below breakeven levels will be forced out of business  
6     in the near future.

7             Each of the statutory threat of injury factors and  
8     all of them cumulatively indicate that the domestic industry  
9     is threatened with further imminent material injury by  
10    reason of dumped imports from China, Malaysia and Thailand.  
11    The domestic polyethylene retail carrier bag industry urges  
12    the commission to reach an affirmative determination so that  
13    antidumping duties can be imposed as soon as possible.

14            MR. DORN: Mr. Bazbaz has one additional comment  
15    he would like to make.

16            MR. BAZBAZ: Superbag de Mexico is owned by  
17    different stockholders. We do not control or manage their  
18    operations. We buy certain small quantities of T-shirt  
19    style bags from them in small bags to service our accounts.  
20    I just wanted to make that point.

21            MR. DORN: That completes our presentation.

22            MR. CARPENTER: Thank you, gentlemen, for your  
23    testimony.

24            We'll start the staff questions with Mr. Reavis.

25            MR. REAVIS: This is one of the investigations

1 where we could be here all day or, in the interests of time,  
2 maybe dwell on a few issues and hope everything will sort  
3 itself out in the end.

4 If you look at enough industries coming with these  
5 types of investigations to the commission, you start  
6 comparing them, and one of the things I noticed with this  
7 industry is the extent to which it imports and purchases the  
8 material that it produces to serve its customers.

9 Can any of you enlighten me as to why this  
10 industry does that to this extent? What has forced you to  
11 import material and purchase it outside of your own  
12 production facility?

13 MR. SEANOR: I think probably representing  
14 everyone here at the table, we have all imported a certain  
15 quantity of product. In most cases, the reason for those  
16 imports is that the price of the product from one of the  
17 named countries is below our cash costs and to compete to  
18 maintain market share we have purchased product to supply  
19 that customer rather than lose the entire business of that  
20 customer.

21 MR. REAVIS: Now, is this the same product that  
22 you would be making in the U.S.?

23 MR. SEANOR: Virtually identical.

24 MR. REAVIS: So what the industry is importing and  
25 purchasing basically is supplementing what they're already

1 doing, not complementing it? Is that an accurate statement?

2 MR. SEANOR: I think so, yes.

3 MR. DORN: I think I would just add to that,  
4 I don't think it's supplementing, I think it's displacing  
5 domestic production because they prefer to sell their  
6 domestic production, but when the price is below their cost  
7 of domestic production, they are forced to displace their  
8 domestic production with dumped imports.

9 MR. REAVIS: So they find it cheaper to make the  
10 same thing overseas rather than in the United States.

11 MR. VARN: Speaking on behalf of Sonoco, we don't  
12 make it cheaper over there. We source it from somebody over  
13 there with the hope that eventually the pricing can go up,  
14 rather than lose market share. It's a lot harder to get the  
15 market share back. We'll substitute what we consider dumped  
16 product from one of the three named countries, at that point  
17 sell it to our existing customer with, as I said, with the  
18 hope that at some point in time we can get those prices more  
19 to an acceptable level above our costs so that we in turn  
20 can manufacture it in our plants in the United States. But  
21 we don't actually manufacture it in the foreign countries in  
22 the case of Sonoco, the bulk of us here, with the exception  
23 of Ampac. We just purchase it at that point, trying to buy  
24 some time, really.

25 MR. REAVIS: Right. But it's the same product

1       that you would normally produce in the United States.

2               MR. VARN:   Identical.   Yes.   That's right.

3               MR. REAVIS:   So you're saving money.   Well, like a  
4       number of us, I know certainly I save a lot of these types  
5       of bags, you pick them up going everywhere.   Every retail  
6       establishment has something different.   Last night I went  
7       through my supply that I've saved over the years and for the  
8       most part the bags I have saved -- now, I did not check the  
9       country of origin, but they seem to be a lot more  
10      sophisticated than these types of bags.   By that I mean a  
11      lot of them had plastic handles that were attached to them,  
12      they had more sophisticated pleats.   A lot of them had solid  
13      inserts of one kind or another to make like a box.   Where  
14      are those kinds of bags made?

15              MR. DILL:   Currently, they're made overseas.   They  
16      could be made in the U.S.

17              MR. REAVIS:   What prevents them from being made in  
18      the U.S.?   Is it the cost of them?

19              MR. DILL:   Well, yes.   And the price would not  
20      justify it at this point, the market price for those.

21              MR. REAVIS:   What makes them more expensive?   Is  
22      it the material that's used in them?   For example, other  
23      than polyethylene, I don't know what the inserts are made  
24      of, but some look like plastic, some look like a cardboard  
25      material or something.

1           MR. DILL: Yes. A cardboard insert. I believe a  
2 lot of that is hand done and I also believe that there's  
3 currently not -- not any more. In fact, I know there was at  
4 one point equipment that supported that better than can  
5 currently be done.

6           MR. REAVIS: So it's not -- you mentioned the  
7 amount of work that goes into it. You mean like manually a  
8 lot of that stuff has to be done?

9           MR. DILL: Yes.

10          MR. REAVIS: Or can it be done in an automated  
11 fashion?

12          MR. DILL: Cardboard inserts -- I've never seen it  
13 made, but I assume it's probably put in by hand. I don't  
14 know that for a fact, though.

15          MR. REAVIS: Do you know of anything else that  
16 might require a type of manual handling to make? I saw, for  
17 example, several types of bags I have have these plastic  
18 handles that are attached to the top, made out of a  
19 different material, for example.

20          MR. DILL: Well, for example, you said the plastic  
21 handles that are done at the top?

22          MR. REAVIS: Right. They look like an extruded  
23 tube of some kind.

24          MR. DILL: Those are made in the U.S.

25          MR. REAVIS: Those are made in the U.S.?

1 MR. DILL: Yes.

2 MR. REAVIS: Okay.

3 MR. DILL: In fact, we used to make those. And we  
4 buy them right now from another domestic producer.

5 One comment, though, on the inserts. I'm trying  
6 to think of who the customer was. I can find out and say it  
7 in private, but we had a customer that used to buy that from  
8 overseas and we actually made a competitive product, so it's  
9 actually an small oval die cut bag. So, yes, those can  
10 be -- there's probably hand work in that cardboard insert,  
11 but there's other domestic competitive products. That  
12 compete with directly.

13 MR. REAVIS: That would serve the same purpose as  
14 that?

15 MR. DILL: That served the same purpose that a  
16 buyer will debate on, you know, which one to go with.

17 MR. REAVIS: Right. Now, your legal counsel has  
18 provided me with a fairly detailed description of the  
19 production process and it does seem fairly automated in  
20 terms of production, so you're kind of confirming that to me  
21 and saying that what you do or what you make falls within  
22 this certain line of automation. If it requires handling of  
23 any kind or another, then it may or may not be difficult for  
24 the individual producer to do.

25 MR. DILL: Yes. We've inserted cardboard in bags

1 before or inserts for a magazine, for instance, you might  
2 pick up at a bookstore, in a bookstore bag.

3 MR. REAVIS: Right.

4 MR. DILL: So that hand work can be done in the  
5 U.S. and it has been.

6 MR. REAVIS: Is that part of the automated process  
7 or does that have to be done by hand?

8 MR. DILL: No, that's done by hand.

9 MR. REAVIS: That has to be done by hand. Is that  
10 fairly expensive to do in the U.S.? Well, let me ask you a  
11 more general question. Is anything by hand on these bags  
12 fairly expensive to do in the U.S.?

13 MR. DILL: I'm not sure how to define expensive,  
14 but it could be. I'm not trying to be evasive, I'm just  
15 trying to think of how to quantify it in the total scheme.  
16 You know, there's certain value added for that customer by  
17 having that insert in there and justifies doing that insert  
18 in the U.S.

19 MR. REAVIS: Right. Well, let me ask just a  
20 general question. If we take these types of bags generally  
21 that you've shown us -- here's one with a drawstring, but it  
22 certainly doesn't look to me like it would be anything that  
23 would require manual labor, but if we're talking about  
24 basically what you've shown us here and the more  
25 sophisticated bags that I've saved at home as total

1 consumption in the United States, what percent of  
2 consumption would you say would include these more  
3 sophisticated bags that are more difficult for the U.S.  
4 producers to do? That's a tough question for you to answer,  
5 but do you have any basis on which to make an estimate?

6 MR. DILL: I don't really have a basis.

7 MR. JONES: We'd be happy to make that type of an  
8 estimate in our post-conference brief. It's kind of tough  
9 question given --

10 MR. REAVIS: Absolutely. Absolutely.

11 MR. JONES: It's hard to define what the  
12 categories are as well.

13 MR. VARN: From a general comment, I would say  
14 negligible, compared to the overall amount of bags that  
15 would fit in the samples we have there, based on what you're  
16 describing would be the great minority of bags that would be  
17 sold in the United States.

18 MR. REAVIS: Yes. If you could translate that  
19 negligible to a percentage, less than 1 percent, less than  
20 5, at some point.

21 MR. VARN: Less than 5.

22 MR. REAVIS: That definitely --

23 MR. VARN: Yes. Less than 5.

24 MR. REAVIS: Less than 5?

25 MR. VARN: Yes.



1           MR. REAVIS: And this would be in terms of the  
2     number of bags and in terms of -- I assume those types of  
3     bags would be more valuable, so in terms of value it would  
4     probably take a larger chunk of the U.S. market.

5           MR. BAZBAZ: Those would be very specialized bags,  
6     used by only high-end stores and they are going to be  
7     probably less than 2 percent of the bags that we are  
8     presenting here. The very, very high-end of those bags are  
9     currently being made in paper and something else.

10          MR. REAVIS: What would also be helpful in your  
11     post-conference briefs is to describe any aspects of the bag  
12     that would be difficult for U.S. producers to do with their  
13     production facilities in the United States, if there is a  
14     particular type of handle. We've been talking about inserts  
15     of one kind or another. Anything that would perhaps require  
16     you to source such a product outside of the United States or  
17     deny your customers production of that for one reason or  
18     another, let us know.

19                 That's all the questions I have for the time  
20     being.

21                 Thank you.

22                 MR. CARPENTER: Ms. Chin?

23                 MS. CHIN: Irene Chin from the Office of General  
24     Counsel.

25                 You've indicated that domestic producers or at

1 least petitioners here have imported these bags from the  
2 subject countries. Can you tell me why your company should  
3 not be excluded from the domestic industry because of  
4 related parties issues? Can you enlighten us on that?

5 MR. VARN: I can speak on behalf of Sonoco.  
6 The percent of bags that we would be importing at this point  
7 would be decimals of a percent of our total sales and would  
8 just be a very, very minute percent of our business.

9 MR. DILL: I don't know the exact percentage,  
10 I'm sure Charles does, but it's a very small amount, maybe  
11 5 percent, 10 percent, somewhere around there or less.

12 MS. CHIN: Does that include your plants in China?

13 MR. DILL: Yes. It does.

14 MR. BAZBAZ: In our case, we don't import anything  
15 from the subject countries.

16 MS. CHIN: Okay.

17 MR. SEANOR: Our sales are less than 1 percent --  
18 our purchases of import are probably less than 1 percent of  
19 our sales.

20 MS. CHIN: Are there any domestic producers that  
21 you believe should be excluded from the domestic industry  
22 based on related party issues?

23 MR. JONES: We believe that API should be excluded  
24 from the domestic industry. We do not have and obviously  
25 could not discuss any data that they may have submitted, but

1     API has through its public statements indicated its  
2     intention to become -- has already become and has  
3     demonstrated its intention to become a significant importer  
4     and has demonstrated that its primary interests lie in  
5     importing and not domestic production, so we would argue  
6     that API should be excluded from the domestic industry.

7             MS. CHIN: Is API the only company that you  
8     believe should be excluded?

9             MR. JONES: That is the only one that we would  
10    argue at this time should be excluded, but, again, we  
11    haven't seen all of the data.

12            MS. CHIN: Can you identify for us the relevant  
13    conditions of competition that you'd like the commission to  
14    consider? You could either expound on it today or in your  
15    post-conference briefs.

16            MR. JONES: I'm sure we will be treating those  
17    issues in the post-conference brief in some detail. I think  
18    the conditions that were mentioned this morning were the  
19    very high substitutability of imports and domestic  
20    production and the fact that the competition in this market  
21    is based primarily on price. Our products are identical and  
22    customers in this market will simply purchase product that  
23    has the lower price. That, I think, is the chief condition  
24    of competition that the domestic producers are facing. We  
25    will certainly consider others and discuss the other

1 significant conditions in our brief.

2 MR. DORN: I might just add a couple of others.  
3 One, this is not a cyclical industry. I think the witnesses  
4 can confirm that what we've had is steady growth during the  
5 period of investigation as a result of increases in  
6 population and even when times are bad retail stores have  
7 sales to keep their volume up and people buy groceries  
8 whether times are good or bad. So this industry is not at  
9 all cyclical and we've had steady growth during the period  
10 of investigation.

11 MS. CHIN: Can you describe whether the sales in  
12 this industry are spot-based or contract based? Do you have  
13 just one-time sales to customers or do you have long-term  
14 contracts?

15 MR. VARN: Depending your definition of long-term,  
16 but typically it's one-year type contracts. There are some  
17 spot buys that take place, but the majority of our business  
18 would be a one-year type duration, whether it's a firm  
19 contract or a verbal commitment or an understanding, that's  
20 typically how the industry runs.

21 MS. CHIN: Now, do Internet auctions play a big  
22 role in your sales to your customers?

23 MR. SEANOR: They do not play a very large role in  
24 our sales, but they play a very large role in the industry.  
25 And the reason I say that is that with the advent of

1 Internet auctions since probably 2001 it has served to  
2 facilitate the foreign producers in the named countries to  
3 penetrate the U.S. market. So it's been a vehicle for  
4 imports to come into the U.S.

5 MR. DORN: Could I add something to the prior  
6 question? When Mr. Varn talked about one-year contracts  
7 I want you to understand that doesn't mean the prices are  
8 necessarily fixed for a year, they're generally quantities.  
9 The prices can vary quarter to quarter within an agreement  
10 to supply a certain quantity within a year.

11 Is that correct?

12 MR. VARN: Yes. Absolutely. In fact, it could be  
13 month to month. We have several different pricing  
14 mechanisms. There is the occasional guaranteed price for a  
15 one-year type timeframe, but a lot of it is based on resin  
16 movement and we use industry indexes. Kim Data would be one  
17 that if Kim Data says resin moved up 2 cents a pound, we  
18 would pass on an increase of 2 cents a pound or if it comes  
19 down we in turn pass that on as well. That's either monthly  
20 or quarterly that you typically have those type of index  
21 movements.

22 MS. CHIN: So you do have benchmark prices within  
23 the industry? Or at least for the raw materials?

24 MR. VARN: What basically happens is there's an  
25 agreed to price through the negotiation process, whether

1     it's an Internet bid or just a normal contract discussion.  
2     And from there, whatever happens, it's relative movement of  
3     resin. If a bag weighs 14 pounds for 1000 bags and resin  
4     goes up one penny, then you would pass on 14 cents for 1000  
5     bags to that customer, either increase or decrease depending  
6     on the movement at that stage. So it's not an industry  
7     pegged price. This is really moving relative to what  
8     happens with resin at the time that you agree to the price  
9     of the bag.

10           MS. CHIN: Are there meet or release clauses  
11     within these contracts?

12           MR. VARN: In many cases, yes.

13           MS. CHIN: Now, is 100 percent of the subject  
14     merchandise --

15           MR. BAZBAZ: I would like to add a little bit  
16     about Internet auctions. I want to bring your attention  
17     back to the October of 2001 auction that was held by Target  
18     and that was really the catalyst and what triggered all this  
19     pricing that was substantially below the cost of the U.S.  
20     manufacturers and from there on it just catapulted.

21           MS. CHIN: Do participants in the Internet  
22     auctions have to be pre-qualified or can anybody enter or  
23     bid?

24           MR. SEANOR: There is a pre-qualification  
25     procedure where -- it depends on who is conducting the

1 Internet auction, but it's routine that they would send out  
2 a document, a request for information, to the participants.  
3 And then the retailer decides whether those people are  
4 qualified or not qualified.

5 MS. CHIN: Is it primarily retailers that hold  
6 these auctions or does, say, a middleman or a distributor  
7 hold these auctions and then turn around and sell them to  
8 retail stores?

9 MR. VARN: The so-called middleman is  
10 e-procurement firms who go in and sell their services to a  
11 retailer and say, look, you can save money if you do a  
12 reverse auction over the Internet and they will show them  
13 how to set up an Internet auction and actually run it for  
14 them, but it really is controlled by the retailer.

15 MR. VARN: Yes. That's right. They facilitate  
16 it. The e-companies would facilitate it, but it's the  
17 retailer that actually controls the buy decision.

18 MS. CHIN: Can you elaborate on why demand has  
19 been increasing, demand for these PRCBs has been increasing  
20 in the U.S. market?

21 MR. VARN: We typically move with the population  
22 growth.

23 MS. CHIN: Now, is 100 percent of the subject  
24 merchandise covered by the scope produced in the U.S.?  
25 I just want to kind of clarify that for purposes of domestic

1     like product.

2                 MR. SEANOR: Could you repeat that question?

3                 MS. CHIN: Is 100 percent of the merchandise,  
4     subject merchandise, covered by the scope or the proposed  
5     scope produced in the U.S.? Maybe your counsel could --

6                 MR. DORN: The only thing that's been identified  
7     that's not currently being produced by the group at this  
8     table are the bags that have the cardboard inserts. We have  
9     a couple of points on that. First, it has been done in the  
10    past, it can be done again. The only reason it's not done  
11    now is the low prices from China. If we could get a  
12    reasonable price for it, it could be done in the United  
13    States.

14                Second, Ampac competes directly and other supports  
15    of the petition compete directly with the bags that have the  
16    inserts. And in terms of like product criteria, the  
17    commission is always looking for a clear dividing line.  
18    What we have here is a continuum going from the T-shirt sack  
19    to the die cut handles to the drawstring handles. There's a  
20    continuum along that line. And the insertion of a cardboard  
21    bottom, we would submit, is not a clear dividing line for  
22    removing those products from the domestic like product.

23                On the other hand, these imports are negligible.  
24    It's not going to make any difference. This is not an  
25    outcome determinative issue. I mean, either way, it's not



1 going to make any difference in terms of the overall data  
2 because those types of bags are peanuts compared to the big  
3 picture.

4 MS. CHIN: Okay. That's it. I have no further  
5 questions.

6 Thank you.

7 MR. CARPENTER: Mr. Thompson?

8 MR. THOMPSON: Good morning. The first question  
9 I have is just basically about the types of plastic. We've  
10 heard of LDPE, HDPE, and LLDPE. I'm just trying to figure  
11 out what is the difference between the characteristics of  
12 the bags that are produced with these different types of  
13 plastics.

14 MR. SEANOR: You're right. You have three  
15 different types of polyethylene. LDPE is low density  
16 polyethylene, probably the oldest of the polyethylenes. In  
17 the late '70s, there was a technological development of  
18 linear low density polyethylene, which basically took the  
19 same process, made it a little bit differently and gave you  
20 strength characteristics that went beyond low density  
21 polyethylene, better tensile strength, better resistance to  
22 puncture and tear were contained in linear low density.

23 It isn't perhaps as -- you can't get quite as  
24 clear a product normally with linear low density as you can  
25 with low density, so, for example, retail bread bags might

1 still be produced in low density polyethylene because the  
2 producer wants to have a clear bag so that you can see  
3 through it, but in many, many applications, linear low  
4 density has replaced low density. Both of them give you  
5 pretty good glass, it makes for an attractive package.

6 High density polyethylene is made, again, in a  
7 similar process, but has different characteristics in the  
8 fact that normally it has more of a matte finish, it's a  
9 rougher surface, it doesn't reflect the light the same way  
10 so you get a duller product. But it has much higher tensile  
11 strength so that particularly in the T-shirt style bag it  
12 has become popular because it gives you the best measure of  
13 weight to strength ratio. Simply stated, that means you can  
14 get similar performance or better performance at a lower  
15 thickness of the product, while still having the strength to  
16 be able to carry the required load out of a retail  
17 establishment.

18 As I said, it looks different, it's got a matte  
19 finish, it doesn't give you the quality of printable  
20 surface, but that's a general characterization of the three  
21 different materials.

22 MR. THOMPSON: Okay. And are most PRCBs that you  
23 produce, are they mostly HDPE or LDPE?

24 MR. SEANOR: That depends on the segment. It  
25 really depends upon what the customer wants. In the grocery

1 segment today, the vast, vast majority of the bags are HDPE.  
2 As you move away from the grocery segment to mass  
3 merchandisers and specialty retailers, you will find more  
4 linear low density product and low density product as well  
5 as what we call a co-extruded product, which is popular, has  
6 a relative amount, I suppose, of popularity in the industry,  
7 where you will take high density and you will extrude a skin  
8 layer of a lower density material which would give you a  
9 more printable surface and give you a shiner, glossier bag.  
10 But of the products that we're talking about here today,  
11 I think clearly the vast majority would be high density  
12 polyethylene.

13 MR. THOMPSON: Similarly, I've seen the term  
14 blending occur in a couple of the articles that were  
15 submitted. I'm trying to figure out what the blending is.  
16 Is that the co-extrusive product you're talking about or is  
17 that a blended LDPE and HDPE?

18 MR. SEANOR: It's normally the latter. A blend of  
19 different polyethylenes. A normal high density polyethylene  
20 bag would be made with high density polyethylene, a small  
21 amount of linear low density polyethylene and a color  
22 concentrate to give it whatever color the retailer desires.  
23 The linear low density is blended generally to increase the  
24 sealability of the product, the processibility of the  
25 product. It depends from manufacturer to manufacturer, but

1 the materials are physically mixed, dry blended, and added  
2 into the extruder simultaneously.

3 That would be different than a co-extruded product  
4 because the co-extruded product might have a blend of  
5 materials in each of the layers, but they would also used  
6 two extruders simultaneously to make two layers of the bag.

7 MR. THOMPSON: So there really is no difference in  
8 the technological specifications needed to make a blended  
9 product versus an HD only or LD only? Because you can just  
10 put them in the same hopper?

11 MR. SEANOR: That's correct.

12 MR. THOMPSON: The next question I have --

13 MR. BAZBAZ: One more thing. We have a  
14 co-extrusion capability but we typically blend the high  
15 density polyethylene and the low density into the layers so  
16 we have the same layers the same way. So the reason why  
17 they are co-extrusion is basically because we need to have  
18 that pumping capacity to pump out the amount of product  
19 through the extrusion line, but it really makes no  
20 difference at the end because we blend all the layers the  
21 same way.

22 MR. THOMPSON: Okay. Thank you.

23 The next question I have is kind of a follow-up to  
24 Ms. Chin's question about the Internet auction and this may  
25 be more for a post-conference brief, but what I'm looking

1     for is you said that maybe less than -- maybe it was for a  
2     different question that you said less than 5 percent, that  
3     was for the imports, how much of your sales in a year are on  
4     Internet auction? You said it was relatively small. Could  
5     you do a breakdown by company for that?

6             MR. DORN: I think we answered that question in  
7     the questionnaires on a confidential basis. I think each  
8     company has responded to that, so I think we can maybe pull  
9     that together for the post-conference brief.

10            MR. THOMPSON: Well, from what I had seen in the  
11     questionnaires it didn't seem like they were giving a whole  
12     lot of percentages about this and I was just trying to look  
13     for a little more detailed information about that rather  
14     than general trends of what's been happening.

15            MR. VARN: It's tough to put a number to it, but  
16     less than 50 percent of our volume would go through the  
17     Internet auction type process for sure.

18            MR. THOMPSON: But those are only auctions that  
19     you've won, correct? So you've also participated in other  
20     auctions that you may not have won?

21            MR. SEANOR: I'd like to make a comment and I was  
22     being a little facetious when I said there were a lot of  
23     Internet auctions but there weren't a lot of Internet  
24     auctions that we win. Therefore, my comment about the small  
25     amount of sales. There are extensive Internet auctions. It

1 has been an effective vehicle for the importers to come to  
2 the U.S. market with these low prices.

3 During our entire history, we have only ever won  
4 one Internet auction. That Internet auction was conducted  
5 by a retailer who chose not to entertain foreign imports.  
6 The playing field was level, probably most of the people at  
7 this table participated in it, we were the incumbent  
8 supplier, we won.

9 The other Internet auctions where we have  
10 ultimately won have been because our pricing was close to  
11 the winning bid. We had to stay close because most of the  
12 time -- all of the time -- the names of the bidders are not  
13 disclosed and you don't know whether the bidder is a foreign  
14 producer, importer, or whether he's domestic. So as the  
15 prices in a typical Internet auction are ratcheted down,  
16 I can just say from our standpoint at Vanguard, our strategy  
17 is to try to stay close so we can go in and sell our  
18 services and what we do and the qualities of our product  
19 against the low priced import. Many times we are successful  
20 because the retailer will decide to award the business to  
21 not just the low bidder, but at the same time that has  
22 forced our prices down and caused severe damage to,  
23 obviously, our profitability.

24 MR. THOMPSON: So if the low priced bidder doesn't  
25 win and your services are what they are also looking for,

1       could you describe what those services are?

2               Mr. Varn, you may want to speak to this also  
3       before we go on to the follow up question.

4               MR. VARN: No, I was only going to make a point on  
5       my recollection on the total market, again, I'd throw out a  
6       50 percent type number of the bags that go over Internet  
7       auction, personal opinion, would be my guess about half are  
8       auctioned off and half are just handled through normal  
9       procedures.

10              MR. THOMPSON: Okay. So, Mr. Seanor, did you hear  
11       my prior question.

12              MR. SEANOR: No, I didn't. I'm sorry.

13              MR. THOMPSON: That's okay. I just wanted to know  
14       of the Internet auctions that you won by having a close to  
15       the lowest price, not by having the lowest price, what were  
16       the services that you offer to these companies that decided  
17       to purchase your bags rather than the lowest price bags?

18              MR. SEANOR: I'm going to generalize on the  
19       situation but the services that the domestic producer would  
20       offer and perhaps services isn't exactly the right  
21       description, but you clearly have area presence, your  
22       manufacturing facility is X miles away from a retailer. He  
23       might feel more comfortable rather than dealing with an  
24       importer that's 12,000 miles away. So obviously the supply  
25       aspect. The ability to address any quality issues with

1     somebody who is a domestic manufacturer obviously has a  
2     role. But it depends largely on the price and how much  
3     difference we're talking about.

4             MR. BAZBAZ: I'd like to add a little bit to that.  
5     With the possibilities of the importers stocking those bags  
6     in warehouses in the United States, that element of service  
7     or quickness to response is negligible, so it not be  
8     immediately comparable as to a bag that is supplied in the  
9     United States. So in other words they would have a  
10    front-to-front competitive advantage as every manufacturer  
11    in the United States.

12            MR. VARN: Yes, and in fact that spread -- the  
13    value used to be much higher, but as imported product has  
14    made more and more inroads into the United States, that, as  
15    Isasc said, the warehousing and issues and all that, it's  
16    become much less of a differentiation than it once was to  
17    where now -- where it used to be that there was some gap,  
18    price now typically prevails more so than it did as recent  
19    as one to two years ago.

20            MR. THOMPSON: Mr. Dill?

21            MR. DILL: On our end of the spectrum, we don't  
22    see as many Internet auctions, maybe 20 percent if you're  
23    looking for a percentage, but we have customers who lay the  
24    prices out on the bids that they're getting, whether it's  
25    through Internet or they're getting in response to a bid



1 package. And they've shared that with us. There have been  
2 some instances, as these gentlemen have said, where we're  
3 not the low price but we may get the business. In our case,  
4 it's through relationships that we have and history that we  
5 have with the customers and they know that we will treat  
6 them right at the end of the day. If there's a quality  
7 issue, if there's a service issue, what have you, we will  
8 make sure that they're satisfied.

9 MR. THOMPSON: All right. Thank you.

10 Now, following up on a different line of reasoning  
11 from what Mr. Reavis had been asking you about the different  
12 types of bags, I was also wondering if we could get a little  
13 more clarification about maybe a breakdown by the type of  
14 bag that each of your companies produce, patch handle, oval  
15 cut, so and so, in the post-conference brief. It may be  
16 easier just to lay it out that way, maybe even in a tabular  
17 form with the different kinds of bags as rows, different  
18 years in columns or something like that and quantity and  
19 value would be great.

20 MR. DORN: We're working on that tabulation and  
21 we'll include it in our post-conference brief.

22 MR. THOMPSON: Wonderful. Thank you, Mr. Dorn.

23 And I guess just while I have you here, Mr. Dill,  
24 how do the types of bags you produce in the United States  
25 compare to the types of bags you produce in China? Are

1     there mare patch handle in the United States, are there more  
2     drawstring in China? What kind of breakdown do we typically  
3     see?

4             MR. DILL: We make mostly the oval die cut and the  
5     patch handle and the drawstring bag, as you'll see in our  
6     breakdown. The only differences are that the drawstring may  
7     be hand tied versus clipped automatically and I'd be  
8     interested to see if any of you noticed that as they were  
9     passed around.

10            MR. THOMPSON: I did, actually.

11            MR. DILL: Most of the time, people will not  
12     notice, therefore, it's acceptable to customers either way.  
13     The only other difference might be that with the patch  
14     handle it may be smooth. It's smooth if it's produced in  
15     the U.S. and typically it's heat sealed overseas. But,  
16     again, it's often not noticed by customers.

17            MR. THOMPSON: Okay. Thank you.

18            How much does printing affect the cost of the  
19     PRCBs? Is printing a very high cost in this? Because it  
20     seems like that's something that would be very customizable.  
21     A lot of the forms and what the bags look like are very  
22     similar from one country to the next, but does the printing  
23     process affect it?

24            MR. VARN: Printing as an overall cost of the  
25     product would be a very, very small percentage of the cost

1 of the bags. You get into your higher end retail with the  
2 six color and all, it becomes a bigger proportion, but just  
3 putting the ink on a typical grocery bag that you see here  
4 is a very, very small percent of the cost of the product.

5 MR. THOMPSON: Okay. And the last line of  
6 questions I have, I kind of wanted to look at paper bags  
7 versus plastic bags, so I don't know if Mr. Dorn and  
8 Mr. Jones want to jump in or Mr. Dill. On page 17 of the  
9 petition, you had noted that paper bags must be double  
10 bagged to carry the same weight as PRCBs and I'm just trying  
11 to figure out, there are a whole range of PRCBs in terms of  
12 how much they can do. What kind of PRCBs are you talking  
13 about? What kind of strength do you have?

14 MR. JONES: I think what we were referring to  
15 there was a T-shirt sack, but I'd have to go back and look  
16 at that. We'd be happy to answer that in the brief.

17 MR. THOMPSON: So you need to double bag the  
18 T-shirt sack in order to get up to the paper bag weight or  
19 you need to double bag the paper bag in order to get to the  
20 carrying capacity of a T-shirt sack?

21 MR. JONES: I'd like to have that text in front of  
22 me. Maybe I can pull it out and answer your question right  
23 now, but I think what we were talking about was the  
24 difference in strength for the density and weight of the  
25 bag. I think that's what we were trying to convey there,

1 the difference between the strength of a very lightweight  
2 T-shirt bag versus the strength of a much heavier, bulkier  
3 paper bag.

4 MR. THOMPSON: So the paper bags, Mr. Dill had  
5 noted that they seem to be a more upscale product, a product  
6 that some people have a definite preference for over the  
7 plastic bags. Is this what you were trying to get at or  
8 does this kind of --

9 MR. JONES: I think what we were trying to get at  
10 there had more to do with the physical characteristics of  
11 the bags than with customer perception of the bags or the  
12 producer perception of the bags.

13 MR. THOMPSON: And you had also noted on page 18  
14 that retail establishments have been switching from paper  
15 bags to plastic bags. I just wanted to know if you had any  
16 kind of data showing this. It's probably something easy to  
17 come across.

18 MR. VARN: I would say industry data particularly  
19 in the grocery segment, which is the large volume, you're  
20 probably 90 to 95 percent plastic today, so the conversion  
21 has pretty much ended and it's gone predominantly plastic.

22 MR. THOMPSON: Okay. If you could just submit  
23 something about that, that would be great.

24 I have no other questions.

25 MR. CARPENTER: Mr. Yost?

1           MR. YOST: Charles Yost, Office of Investigations.  
2     I have one concern and a couple of questions that I'd like  
3     to raise. The concern is what I'm seeing in quite of a few  
4     of the producer questionnaire responses is the inclusion of  
5     purchased inventory in the product line P&L statement that's  
6     being submitted in question 3-6. Where possible, I've asked  
7     responding producers to take it out but that's coming a  
8     little bit slowly. That's a concern I wanted to raise with  
9     you all here right now.

10           MR. DORN: Thank you. We'll explore that with our  
11     clients and make sure we get that right, if it's not already  
12     right.

13           MR. YOST: And I have a couple of questions. One  
14     is have there been any major changes in product mix over the  
15     periods that we're investigating? Product mix, I'm not  
16     talking about simply a volume drop or a price drop, but  
17     changes between types of bags that you produce and sell such  
18     that your sales values might be changing dramatically or  
19     your unit costs might be changing dramatically. You can  
20     address that now just to give me a flavor.

21           MR. VARN: My comment as far as the product, there  
22     has not been a significant shift in the product we sell  
23     today. Potentially going a slightly heavier gauge over the  
24     last year, over the last several years, but nothing at all  
25     that would show up in our records as far as buying.

1           MR. SEANOR: I would concur, that there's been no  
2     dramatic change. On an overall basis, the weight per  
3     thousand units has edged up slightly over the last several  
4     years, but to respond to your question of any dramatic mix  
5     changes, no.

6           MR. YOST: Is that the experience of everyone else  
7     at the table?

8           MR. DILL: Our experience is it's been a very,  
9     very slight move from drawstring to patch handle, but we're  
10    talking maybe -- it's just very small, it's not going to  
11    have a material impact on the product mix impact of the  
12    price.

13          MR. YOST: Okay.

14          MR. BAZBAZ: In our case, we've been making the  
15    same type of bags since we started. We changed the design  
16    in '93 to the tabless self-open bag and since then we've  
17    been making that bag and currently it's 80 percent, 90  
18    percent of our production and sales.

19          MR. YOST: All right. Thank you very much.

20                 Can you use the same resin for making HDPE or LDPE  
21    or linear low density polyethylene? Does the price of that  
22    resin differ very much?

23          MR. SEANOR: The prices are different and even  
24    from time to time there is a change in the relationship of  
25    the materials, but it is not from a functionality standpoint

1 and an equipment standpoint, it isn't something that you  
2 could take a large amount of your capacity and say today I'm  
3 going to make it low density and tomorrow I'm going to make  
4 it high density. There are equipment changes that would be  
5 required to do that. Does that address your question?

6 MR. YOST: Yes. Would a change in the cost of the  
7 resin between these various types of polyethylene cause you  
8 to use one type of resin over another in making the product  
9 that you produce and sell?

10 MR. SEANOR: I think it could cause you to alter  
11 your blend of materials. I could give you an example. As  
12 I said, over periods of time, again, it has changed, where  
13 the relationship between linear low density and high density  
14 has changed and let's say that -- a hypothetical, but actual  
15 situation where linear low density has dropped in price and  
16 high density has remained the same, you have an economic  
17 incentive to increase your blend of linear low density  
18 material to be able to make the product more cost  
19 effectively.

20 You have process limitations to do that, so it can  
21 be done to a certain degree, but certainly you can and would  
22 modify your mix depending upon the relative prices of the  
23 materials.

24 MR. YOST: Would that only affect the products  
25 that you make with the blends and it wouldn't affect, say, a

1 decision to switch from a resin that is a high density for a  
2 product to making that same product with a linear low  
3 density, would it?

4 MR. SEANOR: It depends on each manufacturer's  
5 equipment, but that equipment can be modified and adapted to  
6 go from high density to linear low density. You can do  
7 that, but it's not something that you can do in an hour and  
8 a half. It takes an investment in equipment and it takes a  
9 little bit different know how and technology, but it  
10 certainly can be done.

11 MR. YOST: How is the resin purchased?

12 MR. SEANOR: Normally, resin is purchased here in  
13 the United States in what we call bulk rail cars,  
14 approximately 180 to 200,000 pounds, shipped primarily from  
15 the Gulf Coast to the United States to our manufacturing  
16 facilities. That bulk rail car is then unloaded and  
17 conveyed through conveying systems into our plants.

18 MR. BAZBAZ: We typically purchase the raw  
19 materials on a yearly contract, but the contract only exists  
20 for the amounts of the materials that you're going to be  
21 receiving and the prices will vary up and down every month  
22 or every two months or whenever.

23 MR. YOST: Some of you gentlemen at the table had  
24 described some of your pricing mechanisms where the price of  
25 the price of the product that they're selling is related to



1 increases or decreases in the price of the resin. Do you  
2 also purchase resin based on an index?

3 MR. BAZBAZ: That's most of the cases. Even  
4 though we might not purchase based on an index, when the  
5 index is published and Rex Varn told us about the Kim data,  
6 we refer to that increase or decrease as to be able to buy  
7 those resins at that price index or to reflect those  
8 changes. And typically you will go with your customers and  
9 reflect that change of increase or decrease and that was the  
10 way it was handled in business up to 2001, when at the end  
11 of 2001 the imports started to come to the United States.  
12 In many cases, we were not able to ask for this increase or  
13 decrease because they would threaten us to move away from  
14 that position.

15 MR. YOST: And yet you're still purchasing resin  
16 based on changes in this index?

17 MR. BAZBAZ: Yes. And so we have to absorb all  
18 those changes in many cases and therefore the margins over  
19 the resin were substantially decreased.

20 MR. VARN: Typically, though, we're not priced --  
21 the index reports after the fact what the resin companies  
22 have been able to do and what the index would tell us, if it  
23 went down 2 cents and we didn't get it, then you sure as  
24 heck call the resin company and find out why you didn't get  
25 it if the index says that it happened at that point. But

1 he's more reporting -- the Kim Data is more reporting what  
2 he thinks has happened, his opinion of what has happened  
3 already in the marketplace.

4 And getting back to the linear low and high  
5 density question, that movement, they typically move  
6 together. If linear moves down 2 cents, typically the high  
7 density has moved down as well and the relationship between  
8 the two is just pennies as far as the difference, but that  
9 typically stays the same gap, although we have seen some  
10 movement, as Bill said.

11 MR. YOST: I assume no one here at the table is  
12 related to a company that actually produces resin? Is that  
13 correct?

14 MR. VARN: Yes, no one here. That's right.

15 MR. BAZBAZ: That's correct.

16 MR. YOST: I might have assumed, Mr. Varn, your  
17 company because of the name was related to --

18 MR. VARN: It's different. We're s-o-n versus  
19 s-u-n, so we're a packaging company.

20 MR. YOST: Thank you very much.

21 That completes my questions. Thank you very much.

22 MR. CARPENTER: Thank you. I have a few  
23 questions. Let me start again with the raw material costs.  
24 The counsel for the respondents in his opening statement  
25 made the assertion that raw material prices, principally the

1 resin, are twice as high in the United States as they are in  
2 Asia. Do you have any comments on that?

3 MR. VARN: Yes. I believe we can all speak to  
4 that. That would not be correct. If you go back over the  
5 last five years, and we've done an analysis, you're probably  
6 looking at a 4 to 5 cent spread routinely between Asian  
7 resin prices and our resin prices and that's 25 to 27 cents  
8 versus U.S. at 52, we sure didn't get the 52 cents a pound.  
9 So the gap, although it was large, probably as large as it's  
10 been over recent times, it was a 10 to 11 cent type spread,  
11 but it's working its way back now to that typical 5 cent  
12 type number that we see. And we've even been at parity.  
13 We've been at parity over time, but you're normally looking  
14 year over year of about a 5 cent spread.

15 MR. BAZBAZ: That 52 cents, it was an index  
16 published price and nobody buys at that price, it's  
17 basically just a price list. What is important about that  
18 index is that you see the movement in cents per pound and  
19 it's very difficult to find out exactly at what price each  
20 one of us is buying. We always refer to an index as an  
21 absolute measurement of increase or decrease.

22 MR. CARPENTER: So in general, though, that spread  
23 between U.S. and foreign costs has decreased over the period  
24 we're looking at, 2000 to 2003?

25 MR. VARN: No. I would say that it's been about

1       that on average, that 4 to 5 cent gap.

2               MR. CARPENTER:   So pretty steady throughout?

3               MR. VARN:   Each year, not year over year.   And  
4       I might have said that incorrectly, but if you look at what  
5       the price that the named countries were paying for resin  
6       versus what we did for each of the five years, you're  
7       probably looking at about a 5 cent spread, 5 cents a pound  
8       each year.

9               MR. CARPENTER:   Okay.   Is recycling a significant  
10       factor in containing costs?   Are plastic bags recycled to  
11       any great degree?

12              MR. VARN:   What we do is all the scrap generated  
13       in our plants is reprocessed and put back into our product,  
14       but the bins that you see in the grocery stores, typically  
15       what happens there is we encourage that, mind you, but that  
16       goes back into plastic lumber, benches and that type of  
17       thing as opposed to putting that back into our product  
18       because of the thickness we run at, it's more difficult to  
19       put that back in because of the cleanliness of it.

20              MR. YOST:   Another point that was made was that  
21       because of product mix problems that perhaps when you look  
22       at unit values or prices that a price per pound might be a  
23       better measure to use rather than price per unit.   Does  
24       anyone have a comment on that?

25              MR. VARN:   Yes.   My comment on that would be that

1     our customers buy bags by the thousand bags and so that's  
2     how they're priced at the end of the day, so per pound,  
3     that's used a lot in dialogue, but the customer buys per  
4     each bag basically or per thousand bags.

5             MR. CARPENTER:  Would they be any less if you  
6     looked at price per unit?

7             MR. DORN:  Well, let me say I think that for if we  
8     come back to a final investigation I think it would be good  
9     to collect information on pounds sold as well as units sold  
10    because that can certainly help even out any product mix  
11    problems.  And we'd probably get some better price  
12    comparisons on price per pound than price per unit on  
13    average.

14            Everyone agree with that?

15            MR. VARN:  We can do it either way.

16            MR. CARPENTER:  Okay, thank you.

17            Another assertion that was made that if these  
18    investigations resulted in antidumping orders that that  
19    would simply shift the imports from the subject countries to  
20    non-subject countries.

21            Do you have any comments on that and whether other  
22    non-subject -- I mean how much of a factor in the market are  
23    non-subject imports?  And are they similar to the products  
24    that are coming in from the subject countries?

25            MR. DORN:  I think as indicated in the petition we

1 believe that the imports from the subject countries count  
2 for over 75 percent of the imports of PRCBs from all  
3 countries. And the suggestion that, you know, that  
4 Superbag's going to replace the imports from China, Malaysia  
5 and Thailand with its own imports from Mexico is absurd.

6 As Mr. Bazbaz testified, they do buy very, very  
7 small quantities of bags from Mexico at basically the same  
8 price of bags they produce in the United States and, as he  
9 testified, they're higher cost. So he's got no incentives  
10 to bring bags in from Mexico to any greater extent than he  
11 does today.

12 There is also some suggestion as I heard that the  
13 Canada's a developing country and you get low wages in  
14 Canada and that you're going to replace bags from China with  
15 bags from Canada. It think PCL would do that. PCL is  
16 headquartered in Canada. But they're not bringing in bags  
17 from Canada that are, you know, high labor-intensive bags.  
18 They're, again, very, very small quantities relative to  
19 their domestic production and basically the same type of  
20 bags.

21 And, you know, if you look at the other countries  
22 beyond China, Malaysia and Thailand no individual country I  
23 think counts for more than a couple a percent of imports of  
24 PRCBs from the world. So there is no fourth emerging  
25 supplier out there beyond the three that we've identified,

1 the subject countries.

2 MR. CARPENTER: Hypothetically though is this an  
3 industry that would be easy to establish in another country  
4 within a relatively short time frame?

5 MR. DORN: Well, I mean you know there is capital  
6 investment here. There is substantial capital investment to  
7 set up a facility and there's skill and know-how involved.  
8 We're not talking about a, you know, a purely labor-  
9 intensive product, we're talking about automated equipment.

10 The plants, and Mr. Varn and Mr. Seanor and  
11 perhaps other have been to those plants, they have equipment  
12 very similar to equipment in the United States. And so it's  
13 a matter of establishing plants with modern equipment in  
14 order to compete in the global market. It's not something  
15 that can be done overnight, it would take a lot of  
16 investment and time.

17 MR. BAZBAZ: If they are not dumping we could  
18 easily compete. So this, I don't think that's a question.

19 MR. CARPENTER: All right, thank you.

20 Mr. Seanor, I believe you indicated that you won  
21 some bids because you were close to the lower bidder but  
22 because you offered superior services you were able to  
23 command somewhat of a higher price for your product. I was  
24 wondering for you and for any others at the table if you  
25 have any comments on what might be, say, an average premium

1     that you would be able to get over the subject imports  
2     because of superior services or superior delivery times and  
3     so on?

4             MR. SEANOR: That is really going to vary by the  
5     retailer, the individual circumstances. As I think Rex  
6     noted earlier, a number of years ago the premium that you  
7     could command here was much higher than it is, much higher  
8     than it is today. But today it's been compressed to a level  
9     where at best you're dealing with a couple of percentage  
10    points to be able to -- that you can garner from the  
11    customer because of the product and its product  
12    characteristics being equal to ours, warehousing being  
13    handled here domestically. So it's gotten severely  
14    compressed over the last two to three years I would say.

15            Rex?

16            MR. VARN: Yeah, I would agree 100 percent with  
17    that. And in fact, typically any premium that you get now  
18    is more driven by if you're the incumbent and they just  
19    don't want to bother to change.

20            In fact, when an imported product from named  
21    countries win the bid they effectively become the incumbent.  
22    So the next time a bid comes up they possibly have an  
23    advantage and could even get a premium to us in that case  
24    just because the customer knows the supplier at that point  
25    and is pleased with the product they've been getting, fear



1 of change as much as anything.

2 MR. DORN: And what I've heard from these  
3 witnesses in preparing for today is that one of the fears is  
4 that the importers are getting better and better known. And  
5 starting with this Target reverse internet auction in  
6 October of 2001 was sort of a sea change because here you  
7 had one of the major retailers in the United States moving  
8 to imports.

9 And as a result of the internet auctions a lot of  
10 producers in Thailand, Malaysia and China had pre-qualified  
11 for these auctions. You know, they're gradually winning  
12 auctions, they're gradually becoming the incumbent. And so  
13 every day as a result of that they are on a parity with U.S.  
14 suppliers in terms of service and perceived reliability and  
15 so forth. And so it's making the competition become  
16 increasingly based on price and not on any non-price  
17 factors.

18 MR. CARPENTER: That's very helpful.

19 I'd like to turn to demand now and what kind of  
20 factors are influencing demand. I'm particularly interested  
21 in product innovation and what sort of role that plays.

22 Who is the leader I mean as far as countries  
23 involved, United States versus subject countries versus non-  
24 subject countries, who is the leader in terms of product  
25 innovation as far as developing different styles of bags

1     that other producers worldwide might tend to follow?

2             MR. VARN: I would tend to say that we would be,  
3     the United States would be the leading technology country at  
4     that stage. Having said that we've seen very little  
5     innovation over the last several years as the bags become  
6     more commoditized. The features that we used to try to  
7     develop in the early stages they just don't exist today. So  
8     it's all becoming pretty much look-alike.

9             You know, Isaac referenced that he's got a patent  
10    that he's defending at this point in time but the look-alike  
11    bag to that is not dramatically different.

12            MR. CARPENTER: Okay.

13            MR. SEANOR: Innovations over the years in this  
14    industry have come either from the United States or from  
15    western Europe. The retail carry-out business was probably  
16    first in western Europe and Japan if you go back a number of  
17    years. But plastic was really, polyethylene really started  
18    becoming very popular in western Europe and moved  
19    subsequently to the United States.

20            As you know, the paper retail, paper grocery bag  
21    was here for 100 years. And only through technical  
22    developments of the resins and the processing of the resins  
23    and making it into bags made plastic a more cost-effective  
24    product and replaced that. But that's where really the  
25    innovations have come from.

1           MR. BAZBAZ: Our innovation has most to do with  
2 the speed of the checkout counter and to have a bag that  
3 would leave no residue on the rack after the groceries are  
4 taken from there.

5           As we said, we spent a extensive amount of time  
6 developing a bag that when you pulled out one from the rack  
7 as it's filled the second one opens by itself so the cashier  
8 doesn't have to fool around opening the second bag and you  
9 should be able to package a lot faster and go through the  
10 line a lot faster.

11           That innovation however is unfortunately very easy  
12 to copy. And by just a mold change you make one style bag  
13 versus the other. And so this is unfortunate but, you know,  
14 it is a commodity by now. So there is very little room to  
15 continue making innovations that will be profitary in a way  
16 that know-how that is difficult for someone to copy.

17           MR. CARPENTER: I was just trying to anticipate a  
18 possible argument by the Respondents that perhaps they might  
19 argue they had introduced new types of bags and in effect  
20 were growing the market in that sense as opposed to taking  
21 sales away from U.S. producers.

22           MR. VARN: That should be an unsuccessful  
23 argument. That's not the way we see it.

24           MR. CARPENTER: That's all the questions I have.

25           Okay, we will take a short break of about five

1 minutes to allow the Respondents to come up to the table.

2 Thank you.

3 (Recess, 11:40 a.m. to 11:47 a.m.)

4 MR. CARPENTER: Okay, we will resume the  
5 conference at this time. Please proceed with your  
6 testimony.

7 MR. BOGARD: Good morning. For the record my name  
8 is Lawrence Bogard. I am from the law firm of Neville  
9 Peterson, LLP. On my far left is my colleague John  
10 Peterson.

11 We are here this morning representing a company  
12 called Associated Merchandising Corporation. AMC is an  
13 importer of subject merchandise from Thailand on behalf of  
14 an affiliated company Target Corporation.

15 We've heard the name Target Corporation invoked a  
16 number of times already this morning. I think it's probably  
17 useful for the staff instead of just hearing about Target  
18 Corporation if the staff were to hear from Target  
19 Corporation. So I'm pleased to introduce this morning Mr.  
20 Jim Johnson whose responsibilities at Target are the  
21 procurement of bags that are subject to this investigation.

22 As Mr. Johnson begins his testimony I will add to  
23 your collection of plastic bags by bringing up some genuine  
24 Target samples so you'll have some sense of what it is  
25 exactly he's talking about.

1 Jim, go ahead.

2 MR. JOHNSON: Good morning. My name is Jim  
3 Johnson. I'm a procurement sourcing group lead for  
4 operating supplies at Target Corporation.

5 As you may know, Target Corporation is the second  
6 largest retailer in the United States. Among my  
7 responsibilities at Target is the purchase of the  
8 polyethylene retail carrier bags of the type subject to this  
9 investigation. We refer to these as merchandise bags

10 We purchase the majority of our merchandise bags  
11 through an affiliated importer-distributor called Associated  
12 Merchandise Corporation or AMC.

13 Obviously merchandise bags are an important  
14 element in our business. This year we expect to purchase  
15 roughly 1.8 billion bags. Consequently I am very familiar  
16 with the products themselves and with many, if not most of  
17 the major bag manufacturers both in the United States and  
18 the countries subject to this investigation. This morning I  
19 would like to share with you my perspective on the U.S.  
20 market for merchandise bags.

21 First, I disagree with the Petitioners' claim that  
22 the competition in the market for merchandise bags is based  
23 primarily on price. Target's purchasing decision is based  
24 fundamentally on quality. We view our bags as a walking  
25 advertisement for our stores. The appearance and

1 performance of our merchandise bags is a significant element  
2 in our elements to maintain the strength of the Target  
3 brand.

4 Our merchandise bags must reflect the quality of  
5 our merchandise. Past failures of quality in our  
6 merchandise bags have gained attention at the highest levels  
7 of our management. Our suppliers must meet very specific  
8 requirements as to the physical dimensions of the bags, the  
9 thickness of the film of which our bags are made, the  
10 printing quality and even the feel of the bag itself.

11 At Target we define quality for merchandise bags  
12 in terms of the supplier's ability to meet our product  
13 standards exactly and consistently. Unfortunately, it has  
14 been our experience that U.S. manufacturers do not match  
15 foreign suppliers for consistency of products.

16 For example, we may specify that a bag must be 24  
17 inches long. Domestic manufacturers will be more or less  
18 than 24 inches. That is, some bags may be a quarter of an  
19 inch or a half inch too long. More often bags will be short  
20 by that amount. The dimensions will not be consistent.

21 In contrast, each individual Thai and Chinese  
22 origin bag will be exactly 24 inches.

23 We face a similar problem with the gauge or the  
24 film thickness of the bag. We designate specific film  
25 gauges to ensure that the bags meet our standards for

1 strength, puncture resistance and resistance to splitting.  
2 Domestic produced bags frequently have been thinner than our  
3 gauge, than our specified gauge resulting in a weak bag.  
4 Our foreign source bags are always the correct gauge.

5 Finally, we have found that the printing on the  
6 foreign source bags consistently produce clear, crisp images  
7 while domestic bags frequently have streaks that mar the  
8 image.

9 Beyond these general quality considerations Target  
10 has unfortunately experienced significant reliability issues  
11 with each of the three domestic manufacturers we have used  
12 in recent years. One domestic manufacturer delivered Target  
13 bags with the name Wal-Mart printed in the gusset of the  
14 bag.

15 We sharply reduced our purchases from a second  
16 domestic manufacturer after discovering that the  
17 manufacturer had more than once failed to destroy misprinted  
18 bags as required by the contract. Instead the supplier  
19 allowed the misprinted misprints to circulate in such  
20 unauthorized uses as flea markets.

21 On several occasions the third domestic supplier  
22 without consulting us substituted bags of its preferred  
23 design for the bag design that we ordered.

24 Without a doubt, quality issues of this type have  
25 a significant impact on our purchasing decisions.

1           The second consideration in our purchasing  
2   decision is the qualification of the manufacturer. Not only  
3   do we review potential suppliers for their ability to meet  
4   our quality specifications, we review each supplier,  
5   confidential supplier for financial stability. We review  
6   their quality control processes and we require adequate  
7   insurance coverage.

8           We benchmark a manufacturer's products in the  
9   market. We seek references from other customers of the  
10  manufacturer. We do not want our supplies to be overly  
11  dependent on Target as a customer nor will we limit  
12  ourselves to only one supplier. A supplier must demonstrate  
13  to us a capability to meet the volume requirements on time.  
14  Only after we are satisfied that a supplier is qualified  
15  will we consider that supplier's prices.

16          After quality and prequalifications, price is a  
17  factor in our purchase decision. In this context it is  
18  important to understand that prices for merchandise bags  
19  bear a direct relationship to the cost of polyethylene resin  
20  from which the bags are made. It is my understanding that  
21  resin costs in Asia are lower than they are in the United  
22  States.

23          In addition, as a petrochemical the price of resin  
24  rises and falls with oil prices. Traditionally domestic  
25  manufacturers have indexed their price per bag to the cost



1 of resin. Indexing allowed them to pass any resin cost  
2 increases on to the customer. This was the case for Target  
3 until last year.

4 Target has moved business away from domestic  
5 manufacturers in recent years but the major reason for that  
6 has been the inability of U.S. manufacturers to supply  
7 consistent quality we require. We have maintained a  
8 supplier relationship with one U.S. manufacturer that I am  
9 pleased to say that this manufacturer has worked with us to  
10 improve the products that they sell to us. Based on my  
11 experience, however, I believe that in general the increased  
12 presence of imported merchandise bags in the U.S. has been  
13 fueled by the consistent high quality of imported bags not  
14 by price.

15 Finally, because Target has used an online auction  
16 to solicit bids for its merchandise bag business I would  
17 like to address the Petitioners' claim that such auctions  
18 demonstrate that price is the primary factor in a  
19 purchaser's decision.

20 Participants in our auction were required to be  
21 pre-qualified in order to bid. We identified a broad pool  
22 of potential bag suppliers several months prior to the  
23 auction. We sent requests for information, or RFIs, to  
24 suppliers in this broad pool. Based on the responses to the  
25 RFIs we eliminated nearly half of the pool. Eliminated

1 suppliers included manufacturers in the United States and  
2 the subject countries.

3 Those that responded to the RFI were subjected to  
4 manufacturer evaluations and quality review that I described  
5 earlier. We then sent invitations to bid, or ITBs, to each  
6 of the remaining potential suppliers. Some of these invited  
7 suppliers declined to participate in the auction.

8 In short, non-price factors were evaluated as a  
9 threshold requirement to auction participation. Suppliers  
10 were eliminated based on non-price factors before being  
11 allowed to submit prices.

12 Our pre-qualification process did not eliminate  
13 all domestic manufacturers despite the problems I mentioned  
14 earlier. By responding to the ITB and placing a bid they  
15 agreed not only to the requirements in the specifications  
16 but also to ongoing third party quality testing of their  
17 products. This was to be performed at their expense.

18 When our auction took place most qualified  
19 domestic manufacturers, including two members of the  
20 petition group, submitted one or two token bids in the  
21 opening minutes of the auction. Foreign suppliers continued  
22 bidding until the auction closed. Our conclusion was that  
23 the participating domestic manufacturers were not generally  
24 serious in their pursuit of our business. Despite this, we  
25 awarded a portion of our merchandise bag business to a

1 participating domestic manufacturer. Ultimately, that  
2 manufacturer supplied a significant portion of Target's bags  
3 in 2002.

4 The online auction process levels the playing  
5 field for all suppliers. It eliminates subjective elements  
6 in the purchasing process and replaces them with objective  
7 criteria. New suppliers have a legitimate chance to  
8 participate in some of our business and all supplies are  
9 operating from the same valid base. In effect, the online  
10 auction puts everyone's cards on the table, buyer and seller  
11 alike. Accordingly, the online auction benefits the  
12 suppliers as well as Target.

13 Thank you for the opportunity to testify this  
14 morning.

15 MR. PERRY: William Perry of the law firm Garvey,  
16 Schubert and Barer. I am here representing some of the  
17 Chinese exporters and U.S. importers in the case. We have  
18 several witnesses but before they speak I would like to make  
19 a couple of brief points.

20 One point is why have they expanded the scope of  
21 the merchandise? This is the product at issue, this is the  
22 one most of them produce. This is the product covered by  
23 the scope. As Larry pointed out, this requires a lot of  
24 hand labor. Hand labor cannot be used in the United States,  
25 this is simply too expensive.

1           I don't care what the Petitioners say, these bags  
2     will never be produce din the United States. If they're not  
3     produced in China they will be produced in Brazil. And the  
4     antidumping law is to protect the U.S. industry, not the  
5     industry in Brazil.

6           More importantly, as Superbag indicated, as we  
7     move up to the high-end shopping bags other bags become  
8     substitutuble like paper. And another bag. This is  
9     polypropylene. And this polypropylene bag is perfectly  
10    substitutuble for a high-end shopping bag. So as you move  
11    up other products become substitutable for the high-end  
12    bags.

13          Another point here I'd just like to briefly make  
14    is patents. We talked about innovation. These are patented  
15    bags by Glopac. We will argue they should be excluded from  
16    the investigation because by law nobody else can produce  
17    them. They are for pizza bags. In other words, innovation  
18    comes out of the foreigners too.

19          And, finally, I would like to make a quick point  
20    about equipment. We disagree entirely with the argument of  
21    the Petitioner that the Chinese industry is like the U.S.  
22    industry. It's not. These are smaller machines and they  
23    can be moved very easily. The reason is they are smaller,  
24    they have slower runs. This makes it better printing, it  
25    also makes for a lot of manual labor involved.

1           For instance, we don't have rail cars coming up to  
2   silos and pouring resin into it. We have resin being put in  
3   by hand into the extruders. These are much, much smaller  
4   machines and they can be moved much, much more easily.

5           Now I would like to ask Steve Gitlen of Glopack to  
6   testify.

7           MR. GITLEN: Good morning. My name is Steve  
8   Gitlen and I'm a sales representative for Glopack,  
9   Incorporated. And I've been in the packaging business since  
10  1977.

11           I believe it will help the Commission's  
12  investigation if it understands the differences between  
13  types of bags that are present in the market. There are  
14  clearly, clearly two categories of bags in this case. One  
15  type of bag that is specifically mentioned in the petition  
16  is the t-shirt bag or sack, also known as a grocery bag  
17  and/or a checkout bag.

18           These bags are produced by both domestic industry  
19  and foreign producers. These bags are produced, are  
20  commodity items, they're commodity based products. These  
21  bags are fully automated and machine made. No manual labor  
22  is needed or used.

23           The handles on a t-shirt bag are formed by die  
24  cutting the body of the bag forming a one-piece bag.

25           The second category of product are high-end,

1 labor-intensive shopping bags that in addition to a  
2 polyethylene body have additional components such as  
3 separately applied handles, grommets, the handles are  
4 generally made of rope or plastic, may have metal grommets,  
5 cardboard top and bottoms.

6 In fact, perhaps this might help explain. So they  
7 might have cardboard tops and bottoms which are inserted  
8 manually.

9 All of these additional materials are applied as  
10 an additional production process and are typically by manual  
11 labor. These high-end shopping bags are not presently made  
12 in the United States nor could they be produced here at a  
13 competitive price due to labor costs.

14 I don't understand why a product that's not  
15 produced in the United States should be subject to  
16 investigation. I believe that these bags should not fall  
17 under the same category because there are clear dividing  
18 lines between these products. The Commission should  
19 consider t-shirt bags and high-end shopping bags as separate  
20 like products.

21 As previously mentioned, there are key physical  
22 differences between the products. T-shirt bags are  
23 generally made of one mil or less gauge whereas high-end  
24 shopping bags are generally manufactured in three mil or  
25 higher giving the shopping bags generally manufactured --

1     excuse me. Because they're made in the higher gauge they're  
2     giving the product an upscale image and durability.

3             Again, the shopping bags have many additional  
4     components that are manually added to the bag to enhance the  
5     image. Quite often the printing done on the high end  
6     shopping bags are multi-colored and high registration  
7     whereas the printing done on most domestic bags and  
8     merchandise bags and checkout bags are simple and basic.

9             Further, these bags are not interchangeable. They  
10    are not used by the same customers for the same purposes nor  
11    would the industry market them to the same retailers.  
12    Consumers and producers have the same perceptions, t-shirt  
13    bags, grocery bags are commodity type bags used as a simple  
14    way to get goods home for a one-way trip and then disposed  
15    of or recycled.

16            The high-end shopping bags are used as an  
17    advertising vehicle commonly known as "bagvertising" and  
18    become a walking billboard for the retailers and a status  
19    symbol for the customer.

20            The channels of distribution for these two  
21    products are also different. T-shirt bags are generally  
22    sold through distributors which call on grocery stores, food  
23    service and food related type items. The high-end shopping  
24    bags are sold through retail packaging distributors who call  
25    on high-end retailers such as boutiques and specialty shops.

1           In addition, sales of high-end shopping bags are  
2     made at significantly higher prices and in lower quantities  
3     than the sales of t-shirt bags. As mentioned above, the t-  
4     shirt bags have been marketed widely to supermarkets,  
5     drugstores and delis, whereas high-end shopping bags and  
6     with hand-finished features are sold to specialty shops and  
7     high-end retail for its image, durability and advertising.

8           It is my understanding that the t-shirt bags and  
9     the high-end shopping bags are produced on different  
10    production equipment and in different facilities. As  
11    mentioned above, the manufacturing process of t-shirt bags  
12    is fully automated with little or no manual labor while the  
13    high-end shopping bags require intensive manual labor.

14          In conclusion, I believe that the consumer  
15    perceptions of these products are consistent with mine  
16    because high-end shopping bags are not presently produce by  
17    domestic industry and does not respond to a high percentage  
18    of volume as mentioned by the counsel for the Petitioners,  
19    then they should be excluded from the complaint.

20          Thank you for your time, for allowing me to speak.  
21    And I would be pleased to answer any and all questions.

22          MR. PERRY: Frank Cannon of PDI Saneck.

23          MR. CANNON: Good morning. My name is Frank  
24    Cannon, Jr. I am president of a company called PDI Saneck,  
25    a family-owned company. I also have ownership in a U.S.



1 plant. I believe I do have some knowledge about this  
2 industry.

3 My company is both an importer of plastic bags and  
4 also a buyer from the petitioning companies. I was very  
5 surprised by this petition as well as the other importers  
6 because we all have knowledge that the owners import some of  
7 these bags from the subject countries that are being  
8 investigated.

9 It's been mentioned but again we're aware that  
10 Superbag has bought bags from Mexico. Vanguard has brought  
11 in bags from Hong Kong, Orange Plastics from Vietnam. And  
12 PCL we know from Canada as they're headquartered in Canada  
13 and, finally, Sonoco from Brazil.

14 More puzzling to me I guess, as indicated by my  
15 colleagues is that certain bags in this petition cannot be  
16 produced in the United States and we're very puzzled why  
17 they're included in this because of the high labor costs.  
18 They must be produced abroad, as he said.

19 Now, in this case it seems that the Petitioners  
20 are focused on the prices of the bags. Let me make a few  
21 points about the pricing.

22 First, the Commissioners' questionnaire which we  
23 discussed earlier came out and collected data on cost per  
24 thousand of bags. And we're concerned that that may yield a  
25 lack of information back from the importers because of the

1 product specification, the A, B, C, D, E, where importers  
2 might import a slightly different bag than is indicated in  
3 those areas and therefore fail to report because it doesn't  
4 apply.

5 To give you an analogy, it would be like an  
6 investigation on automobiles where we're being asked  
7 questions on pickup trucks and dump trucks. We simply feel  
8 that this is well beyond the scope and not what we should be  
9 answering about.

10 We do say that bags are very diverse. And to  
11 study it in this questionnaire we need to talk about price  
12 per pound. We also say that these bags that are  
13 automatically made which are commonly referenced as t-shirt  
14 bags are referred to in price per pound constantly. That is  
15 the comparison that we use. We will agree that in the  
16 shopping bags and things of other nature it gets more  
17 complicated. But when we speak about t-shirt bags price per  
18 pound is clearly the best way to analyze it.

19 Even the Asian exporters which we buy from speak  
20 to us in terms of dollars per pound, or in their verbiage,  
21 dollars per metric ton. And it's all based on how they buy  
22 their raw materials which everyone buys raw materials on  
23 dollars per pound. You don't buy raw materials in dollars  
24 per thousand bags.

25 And, again, we feel that that's the only way to

1 make an apples to apples comparison on the products being  
2 imported.

3           Again, going further into the issue of cost I  
4 think the real issue confronting the domestic industry is  
5 the cost of the raw material, the cost of the raw material  
6 in the United States compared to Asia. Using the same ISLS  
7 LOR publication that they referenced in their petition the  
8 data for July publishes as follows. It says that the Asian  
9 price is between 25 and 27 cents per pound and that in the  
10 United States in the same publication that the resin is 46  
11 to 58 cents a pound. We agree with the proponents this is  
12 all published information but, as they say, it doesn't vary  
13 much differently than that. Those are published prices.  
14 We're not aware of what the domestic producers are  
15 purchasing at but this is the publication their customers  
16 use for reference and we use for reference.

17           In addition to that, I think that the proponents  
18 failed to announce that they have another increased slated  
19 on the table. It may not have gone through. It was  
20 announced for July. But they were all faced with another  
21 increase in raw materials in July published by the resin  
22 companies.

23           In contrast, the Asian market had deteriorated,  
24 leveled off and has only bounced back briefly. Again, as  
25 they said, this product is largely tied to oil and gas.

1           The other issue I believe is that we don't think  
2   that the resin spread between the two countries is going to  
3   change any time soon. Resin is now produced globally. As  
4   they said, the resin that they purchase comes from the Gulf  
5   Coast of America. Most of your resin production plants are  
6   in the Gulf and they ship by rail cars.

7           Those same companies, U.S. companies and others,  
8   have expanded and put in resin plants overseas, South  
9   American, in Asia, in Europe. They're all expanding and  
10   producing resin in the countries that are closest to the  
11   production. We think that that's going to continue to  
12   happen, that the resin plants are going to develop in Asia  
13   and over in the Middle East. The Middle East is a large  
14   supplier of resin to the Asian industry. And we don't  
15   believe that that will change any time soon.

16          Another issue is to look at the factors to explain  
17   any problems that domestic industry may face. One customer  
18   base -- one is that their customer base has shrunk. I think  
19   that there are some questions about that. It's continue to  
20   shrink due to bankruptcies. K-mart was a large retailer  
21   that went bankrupt, closed a lot of their stores. That's  
22   affected both financially to the domestic producers and from  
23   a supply aspect.

24          Another issue has been consolidation in the  
25   industry, particularly in the grocery industry where there's

1 very few grocers, independent grocers left in the country.  
2 They are all being formed as large groups and then they do  
3 their buying by large groups.

4 Companies like Kroger who used to have four  
5 operating units buying independently are now buying as a  
6 unit and therefore they are yielding much more power.

7 We feel that the ongoing recession is a key  
8 factor. Retail sales are down. People do eat groceries but  
9 the retail sales are down significantly and that affects the  
10 ability of them to sell plastic bags.

11 Additionally, we feel that they continue to lose  
12 market shares to companies like Sam's and Wal-Mart and the  
13 Super Centers who then are bulk purchasing their products.  
14 And in some cases like a Sam's Club they don't even use  
15 plastic bags. You know, you're forced to use a box in the  
16 store, so that's been eliminated.

17 Moreover, for the remaining business that's left  
18 price competitive of the domestic producers is intense. As  
19 importers we feel largely that the competition among the  
20 domestic producers is a key factor here. U.S. importers  
21 don't feel that we are the price leaders on low cost  
22 products, we feel that we follow pricing in the marketplace.  
23 Collectively, importers may represent a large volume of  
24 plastic bags but individually no one of us is as large as  
25 the domestic producer and therefore cannot singlehandedly

1 yield the market, control market pricing.

2 We simply just follow the prices that we feel the  
3 domestic producers establish. And we feel that we walk away  
4 from a substantial amount of business because according to  
5 us the prices are just simply too low. And, again, we feel  
6 that was set by the domestic producers.

7 Petitioners have pointed to the internet auctions  
8 as the reason of the price decline. The Commission should  
9 know, however, that I can sit here and say that I have been  
10 successful on two internet bids. In both cases I was not  
11 the lower bidder. As has been stated earlier, you get to  
12 the point where you have established where you can produce  
13 and then you stop bidding. And the process has been fair  
14 and yielded to the supplier that has the service and quality  
15 aspects that are important to the customer, not the price.

16 Another reason for the challenges facing the  
17 domestic industry may be product styles. And this is  
18 possibly a complicated issue. But the trend in our industry  
19 has been from heavier bags to lighter bags, thinner bags.  
20 The shopping bags have become thinner and thinner.

21 The major customers of the Petitioners, grocery  
22 chains in other words, have done a couple things. First,  
23 they realized when you go to a grocery store that you don't  
24 want ten items in your grocery bag. So what they've done is  
25 they've done studies and they found that even their clerks

1 weren't filling these large grocery sacks that they were  
2 putting out on the counter. So they decided to continually  
3 decrease the size of the bags.

4 What used to be the industry standard ten years  
5 ago was a bag 12 by 8 by 24. Well, today that same bag is  
6 12 by 7 by 19. It's shorter and it's thinner, as much as 40  
7 percent thinner we feel over the last ten years.

8 All these changed unfortunately has destroyed what  
9 we consider to be the accounting model of the domestic  
10 producer. Their through-put rates on their machines  
11 obviously will decrease. If the bag is thinner and weighs  
12 less pounds per thousand it takes the same manufacturing  
13 time they yield less pounds at the end of the day.

14 A comment was made that they feel that their  
15 average weight per case has picked up a little as opposed to  
16 dropped down which contradicts what I saw. I think that  
17 might be another indication of the business they're losing.  
18 They are uncompetitive on the thinner, smaller bags and  
19 therefore that's the part of the business that they've lost.  
20 And so the remaining production is on the heavier, thicker  
21 bags and may account for a pickup in their average case  
22 weight.

23 The additional thing was that innovation was not  
24 addressed as far as resin material. There's innovation in  
25 resin material ongoing constantly. And we have seen the

1 evolution of new resin products developed every year. And  
2 with that evolution it's constantly geared towards making  
3 the product thinner. The bags are thinner today than they  
4 were ten years ago because the resin is better than it was  
5 ten years ago. We now have bimodal high density which  
6 accounts for the reason that they can downgauge.

7 In other industries where it's been the  
8 significant factor with pallet wrap and some of the other  
9 items where strength is so important innovations in resin  
10 have driven the average weight per thousand down.

11 And, again, because of their accounting models  
12 possibly what used to be a price per pound model that worked  
13 for them years ago no longer works. Production rates drop  
14 due to the thickness of the manufacturing, therefore your  
15 costs per pound actually increase. Today's through-put  
16 rates no longer justify the extensive capital investments.  
17 They commented on the capital investments; they're quite  
18 right, it's extensive that they've put into their plants.  
19 Unfortunately, the product they're manufacturing now doesn't  
20 allow for that capital investment. And I think later on you  
21 will hear about what the capital investment in Asia is  
22 compared to what it is here. And there is a reason why we  
23 can make those kinds of bags better in Asia.

24 Therefore, in effect the profitability squeeze  
25 which we suspect they are having is due to their inability



1 to change to the domestic market and what's happening to the  
2 product in the market.

3           Additionally, I would like to challenge the  
4 estimates that they provided in the proponents' estimates.  
5 They claim that 75 percent of the plastic bags that are  
6 reported under the statistical category in Customs from the  
7 countries indicated are bags that fall under this petition.  
8 It seems like a self-serving assumption because it's largely  
9 not based on any facts that were presented in the petition.  
10 And I don't think that looking at my own estimates and what  
11 our company does probably 10 percent of the products that we  
12 import fall under that from those countries.

13           We feel that they clearly ignore all the other  
14 products not mentioned today. Plastic bags come in so many  
15 different forms, not shopping bags, produce bags, deli bags,  
16 bread bags, all of those categories, all of those bags come  
17 in under the same category in Customs for the most part. We  
18 have one supplier alone in China that exports 200 million  
19 bags to cover newspapers that come under the statistical  
20 category indicated.

21           So I am here to protect my business and those  
22 other items that possibly would fall under those categories  
23 and to challenge their estimates.

24           In addition, the imports from Canada and Mexico  
25 were assumed at 15 percent. In spite of the popular belief

1 by most of us here that Canada is a significant supplier of  
2 t-shirt bags and lathe top bags into the U.S. market. We  
3 assume Canada exports predominantly are t-shirt bags. Even  
4 by the statements by proponents the labor costs up there are  
5 high and therefore they would not be a labor-intensive item  
6 like that. We agree but they would be t-shirt bags which  
7 are automated.

8 Finally, all of us firmly believe that this case  
9 is not going to lead to an increase in market prices for the  
10 United States. The importers are simply going to source  
11 their products from other countries, and do today. Same  
12 products are coming in from Sri Lanka, Brazil and Vietnam,  
13 for instance, and by the proponents, Indonesia, the  
14 Philippines. These are all products that have been made in  
15 those countries for many years, especially the t-shirt bag.  
16 The t-shirt bag, as they testified, was created in Europe  
17 and Asia and it was late coming to the United States.

18 The country of China produces so many t-shirt bags  
19 because they consume so many t-shirt bags. All of the  
20 countries not in this petition consume t-shirt bags and,  
21 therefore, the production exists today to export the  
22 product.

23 And, finally, I would just like to thank you for  
24 giving me the opportunity to testify.

25 MR. PERRY: Rob Guido of Progressive Sales.

1           MR. GUIDO: Good afternoon. Before I begin I  
2 wanted to make a point. I think one of the samples that the  
3 Petitioner passed around which is sort of an orange bag  
4 printed Alde, if I'm not mistaken, unless something has  
5 recently changed I do believe that's an import. And I'm not  
6 sure, they can check on that, but it's been an imported bag  
7 for a substantial period of time.

8           My name is Rob Guido. I'm the president of  
9 Progressive Sales Corporation. Our company has been  
10 importing all types and styles of bags since 1980. My  
11 company is both a supplier to and a purchaser from one of  
12 the petitioning companies.

13           The Petitioners have asserted that the equipment  
14 in far eastern bag manufacturing facilities is on par with  
15 those of domestic producers. And this is absolutely not  
16 true as much of the equipment in far eastern factories is  
17 typically slower and older equipment. This allows for the  
18 labor rates, which are more favorable in those countries, to  
19 maximize the flow of through-put in terms of the pounds,  
20 kilograms per hour of these older machines.

21           Typically, domestic manufacturers cannot afford to  
22 make short runs of product and cannot readily make product  
23 with low through-puts per hour as their costs are too high.  
24 The cost of domestic labor and equipment far and away  
25 exceeds that of most other market and non-market economies.

1 Yet even through this typical case the domestic petitioners  
2 and other manufacturers set the price for most of these  
3 polyethylene retail bags.

4 Raw material costs are also a major factor in  
5 properly calculating the cost of goods. U.S. produced  
6 resins can outpace those in the far east by 100 percent or  
7 more. This can contribute to the domestic industry's higher  
8 cost of production.

9 Additionally, domestic facilities with state-of-  
10 the-art equipment must run these machines 24 hours a day, 7  
11 days a week as they cannot afford down time on multi-million  
12 dollar pieces of equipment. In stark contrast, far eastern  
13 manufacturers typically have much more flexibility to stop  
14 and start production because their cost of equipment is  
15 significantly lower. Thus products that are more labor  
16 intensive will never be produced domestically, rather they  
17 will be shifted to other low labor countries for production.

18 It is a misnomer to believe that, number one,  
19 labor-intense products can ever be profitably produced in  
20 the domestic marketplace and, number two, domestic low-end  
21 bag products can replace high-end bag products. There's  
22 simply no correlation between the two.

23 Further, domestic manufacturers are not even  
24 remotely interested in producing the labor-intense high-end  
25 bag products.

1           In the first quarter of 2003 import bag volume  
2   rose significantly quarter over quarter due to several  
3   factors. Number one was the west coast port strike which  
4   caused an increase in imports after the strike was settled  
5   to replenish depleted inventory. And, number two, the  
6   pending war with Iraq drove prices of petroleum based  
7   products such as resin and caused what I typically  
8   characterize as panic buying or buying of the product.

9           Another point, our flexibility in offering many  
10  different products while the Petitioners and other domestic  
11  manufacturers only offer one or two different styles of  
12  product and that gives us an advantage over domestic  
13  producers. Additionally, our ability to warehouse and  
14  distribute these products effectively across the country  
15  gives us other advantages which the domestic manufacturers  
16  cannot meet.

17          We do not follow the domestic industry down to  
18  uncompetitive price levels which they typically set. In  
19  these instances we let the domestic manufacturers beat each  
20  other up on price. We find it extremely hard to compete  
21  with the lower price t-shirt bags against domestic  
22  manufacturing which all the Petitioners do produce. The  
23  U.S. manufacturers have simply rolled the dice on extremely  
24  large capital investments in their manufacturing facilities  
25  which has caused their costs to spiral out of control.

1     These sluggish and behemoth domestic manufacturing  
2     facilities are simply too inflexible to react to market  
3     changes and conditions.

4             The most current analogy I can make to illustrate  
5     this point would be to compare Southwest Airlines and United  
6     Airlines. It's not that Southwest is selling under their  
7     cost levels, it's simply put that United's cost levels are  
8     too high to effectively compete.

9             I thank you for your time.

10            MR. PERRY: Before introducing James Leu I would  
11     just like to make one point. Frank Cannon does know about  
12     production facilities, bags in Hong Kong. This is important  
13     because therefore you cannot assume that imports from Hong  
14     Kong are simply bags being transhipped from China. There  
15     are actually bag production facilities in Hong Kong. And  
16     that's considered separate customs territory and a separate  
17     country.

18            James.

19            MR. LEU: Good afternoon. My name is James Leu.  
20     I am director of operations of MHI Group.

21            MHI Group has one supplier that purchases plastic  
22     bags and exports them to the United States, Japan, New  
23     Zealand and Australia. We understand that through the  
24     Chamber of Commerce for light industrial products in China  
25     that Chinese producers have submitted a number of responses

1 to the foreign producers' questionnaire. I firmly believe  
2 that there is no visible indication of threat of material  
3 injuries to importers of retail carrier bags from China.

4 Our supplier sells plastic bags to a number of  
5 different countries, not just the United States. The  
6 Chinese industry is also selling plastic bags all over the  
7 world so the United States is not the target of plastic bag  
8 exports. Our supplier is operating at a near or full  
9 capacity level. And I am fairly confident that other  
10 Chinese manufacturers are also operating at that level  
11 because to keep their overheads low they must run at that  
12 level.

13 Please understand if companies, any companies, if  
14 they cannot make money from producing plastic bags they will  
15 go bankrupt. Most Chinese companies have investors from  
16 Taiwan or Hong Kong and if the companies are not making  
17 money the investors will simply pull out with six to 12  
18 months.

19 As Frank Cannon and Rob Guido have mentioned,  
20 Chinese production facilities are very different from U.S.  
21 production facilities. Our supplier, for example, is much,  
22 much smaller than the large U.S. producers. Our suppliers  
23 manually load the resin into extruders where the U.S.  
24 companies have large and expensive silos which are loaded by  
25 rail cars. The supplier's overhead by doing that is much,

1 much lower as well.

2 For a great majority of the Asian producers our  
3 machines are much smaller and they run at much slower speeds  
4 which are more adaptable and more flexible to the smaller,  
5 thinner, higher quality bags.

6 Our suppliers also purchase resin in a very  
7 different way which gives us more leverage in our cost  
8 structure. The U.S. bag companies buy on a just in time  
9 basis which leaves them with only one week's supply of  
10 resin. On the other hand, our supplier has one month to two  
11 month's of supplies. This allows them to wait if resin  
12 prices have a sudden spike in price as they did this year  
13 because of the Gulf War our suppliers can afford to wait and  
14 buy when the resin prices are lower.

15 Being smaller, our suppliers can shut down  
16 temporarily to wait out high raw material costs where the  
17 U.S. producers cannot afford to shut down with their multi-  
18 million dollar equipment.

19 I want to emphasize what Frank has already said.  
20 Resin prices are lower in China and higher in the United  
21 States. Moreover, the spike in imports this year is  
22 accounted for by several unusual chain events, the first  
23 being the west coast dock strike which took place in  
24 September to November last year that caused a backlog of  
25 products throughout the inventory.



1           Another reason is the prelude to the Gulf War.  
2   Uncertainty causes resin prices to increase substantially in  
3   January and February. Companies wanted to import bags  
4   before the increase in resin costs which resulted in the  
5   increased in bag prices.

6           The final reason was substantial increase in the  
7   freight costs of \$1,000 per contain in May of this year.  
8   Importers wanted to increased their imports so as to get the  
9   product in before the freight increase.

10           Thank you for your time.

11           MR. JAMES: Thank you. My name is Dennis James.  
12   I'm a member of the law firm of Cameron & Hornbostel and I  
13   am accompanied today by my colleague Valerie Ellis.

14           We are here on behalf of the exporters of  
15   polyethylene retail carrier bags from Thailand. It is our  
16   position that if the U.S. industry is suffering injury, and  
17   that is still an open question since we have yet to see the  
18   questionnaire from many members of the industry, if there is  
19   any injury that injury is not caused in any way by imports  
20   from Thailand.

21           The Petitioners themselves have recognized that  
22   they represent only a portion of the industry. There are  
23   perhaps 26 other U.S. producers besides the Petitioners.  
24   And even among the Petitioners some continue to be  
25   competitive in the market for this product. Moreover, we

1 believe that data on the non-petitioning U.S. manufacturers  
2 will demonstrate that they are actually doing quite well.

3           Nonetheless, if the Commission should find that  
4 the industry is suffering injury we assert that any such  
5 injury is not the result of imports and is certainly not the  
6 result of imports from Thailand. Publicly available data  
7 provided by the Petitioners themselves indicate that imports  
8 from Thailand are minimal and have remained relatively flat  
9 over the last few years. This is especially noticeable if  
10 one compares import quantities from China to those from  
11 Thailand which is what we have done in our first graph that  
12 I have given you.

13           Now, the purpose of that graph is not to undercut  
14 any of the arguments made by the Chinese about why imports  
15 are increasing, the purpose is to demonstrate that even  
16 though imports might be increasing they are increasing very  
17 minimally from Thailand.

18           Even more telling is the trend in prices from  
19 Thailand. The Petitioners claim that this case is all about  
20 price but the data demonstrate that prices based on average  
21 CIF values of Thai imports have trended upwards throughout  
22 the last three-plus years while the Chinese CIF values have  
23 declined. This contrasting trend is illustrated in our  
24 second graph which I've given you.

25           Not only are Thai exports not injurious to the

1 domestic industry, they are also not a threat. The  
2 questionnaire responses submitted today by the Thai  
3 producers and exporters which you will be receiving shortly  
4 demonstrate that they are all working at high capacity  
5 utilization rates, some over 90 percent, and that they have  
6 no plans for expansion.

7 It should also be noted that the one Thai company  
8 the Petitioners single out as "an imminent threat" is a  
9 company set up by a U.S producer. This suggests that the  
10 real target of this case is not really foreign supply from  
11 all of Thailand but a domestic competitor who wandered off  
12 the ranch.

13 As noted, Petitioners claim that price is the  
14 issue on which the Commission should focus. We think that  
15 the Commission will find that price is not the issue in this  
16 case. According to U.S. purchasers to whom we have spoken  
17 quality, not price -- and you've heard that from Mr. Johnson  
18 -- is paramount in choosing among suppliers. And in most  
19 instances, particularly imports from Thailand, the imports  
20 are superior in quality.

21 U.S. customers claim that imports are more  
22 consistent in terms of size requirements and are superior in  
23 terms of film gauge and seal of the film. This is true of  
24 all types of bags and not just the high-end bags that are  
25 being discussed but also the so-called t-shirt bags.

1           Most importantly imports, and again Thailand in  
2 particular, are far superior in terms of print quality,  
3 largely due to the different printing processes used. U.S.  
4 producers we are told rely on the flexograph process whereas  
5 Thailand's producers use both flexograph and rotogravure.

6           As you can see from the bags we've brought here  
7 today, and these are the bags, one from Thailand, this is  
8 the Thai bag, and one from the United States, the Thai bag  
9 has a much higher quality in the printing. The resolution  
10 is much higher and it's sharper and it's crisper. It is  
11 also our understanding that a wider color variety is  
12 available out of Thailand.

13           Quality and consistency are paramount to PRCB  
14 purchaser because the bags are in effect, as you've heard,  
15 advertising for the company. In many instances they carry  
16 the company's name and logo. In a sense, these bags are the  
17 face of the company. Moreover, the bags themselves while  
18 considered expense items by many purchasers are minuscule in  
19 terms of the portion of the cost of doing business. Cutting  
20 out a few dollars per ton on plastic bags is not going to  
21 move a company from red to black.

22           We have been told that most U.S. producers to date  
23 have failed to meet the quality needs of their customers.  
24 And again you heard that in testimony today. As a result,  
25 they have lost market share not to lower priced imports per

1 se but to better quality products that meet the customer's  
2 demand.

3           There may be a number of reasons other than  
4 imports that have kept the U.S. producers from modernizing.  
5 You've heard about high resin prices in the U.S. versus  
6 abroad. We will not discuss that. But there may be other  
7 issues as well. It is our understanding that in the United  
8 States the plastic bag industry is subject to heavy  
9 environmental regulations. States are also after the U.S.  
10 plastic bag makers.

11           For example, California recently introduced  
12 legislation that would impose a tax on each and every  
13 plastic bag used by a retailer in the state. As unfair and  
14 harmful as this legislation may be to the Petitioners it has  
15 nothing to do with imports.

16           Rather than the bane that they are suggested to be  
17 by Petitioners, there was a time not so long ago when  
18 imports were a boon to the industry. According to each and  
19 every importer we have questioned it was the U.S. producers  
20 themselves who introduced imported products to their  
21 customers. Even during the current period of investigation  
22 several of the Petitioners were mentioned as being among the  
23 largest customers of the Thai industry. Even after the  
24 filing of the petition at least one U.S. petitioner has  
25 continued to seek imports from Thailand and to ask for lower

1 prices.

2 The real problem the Petitioners are facing is  
3 that with the advent of internet auctioning and the virtual  
4 buyer's market they are no longer in control of the import  
5 supply and can't reap the benefits from their own resales of  
6 imports. In other words, the middleman has become obsolete.  
7 This is utterly unrelated to unfair import competition.

8 In light of the lack of any evidence of injury  
9 caused to the U.S. industry by imports from Thailand and in  
10 consideration of what we fear may be, at least insofar as  
11 Thailand is concerned, manipulation of the U.S. trade laws  
12 to punish a U.S. competitor for investing abroad, we ask the  
13 staff recommend a finding of no reasonable indication of  
14 injury and terminate this case.

15 Thank you.

16 MR. GRIMSON: Good afternoon. I'm Jeffery Grimson  
17 with the law firm of Grunfeld, Desiderio, Lebowitz,  
18 Silverman & Klestadt. I am here today to introduce Alan  
19 Creais, the president of Kal-Pac Corporation. And we're  
20 also joined in the audience by Mike Nozawa who is the CEO of  
21 Kal-Pac.

22 MR. CREAIS: Good morning. My name is Alan  
23 Creais. I am the president of Kal-Pac Corporation.

24 I came to the polyethylene bag business along a  
25 rather circuitous route. I began my career as a staff

1 sergeant in the Army's First Cavalry Division in Vietnam.  
2 After the war I worked for the Veterans Administration for  
3 eight years and then went to work for the U.S. Customs  
4 Service.

5 As a senior inspector I became a training officer  
6 at JFK Airport and then finishing my career with U.S.  
7 Customs as the U.S. Customs liaison to the United Nations.  
8 I joined Kal-Pac in 1991.

9 Kal-Pac is a U.S. importer of polyethylene retail  
10 carrier bags from our affiliated factory in China. We have  
11 been in business for over 20 years. Although our bags have  
12 been swept up in the very broad scope of this case our  
13 particular bags are a completely different product than the  
14 bags made by the domestic industry. They are not  
15 interchangeable.

16 Approximately 90 percent of the domestic  
17 industry's bags are typified by the t-shirt style bags that  
18 0006 millimeters in thickness or 15 microns. They are  
19 extruded into a single piece of polyethylene which is then  
20 printed and the whole are cut in a continuous production  
21 process. The bags are comprised entirely of polyethylene.  
22 You've seen here many examples of this type of bag this  
23 morning.

24 On the other hand, our typical bags are between  
25 2.5 and 4 millimeters or mil in thickness or about 62.5 to

1 100 microns. They have a cardboard bottom and a separately  
2 applied handle of either rope or polyethylene. The  
3 cardboard bottom gives the bag a box-like shape and allows  
4 the bag to stand up straight so that the store's logo is  
5 more readily invisible when the consumer walks through the  
6 shopping mall.

7           Some of our bags also have cardboard inserts along  
8 the top edge which provide further support to the bag and  
9 enhances the square shape of the bag while it is carried.  
10 The presence of the cardboard inserts is a major physical  
11 difference between our bags and the domestic industry's  
12 bags. The cardboard inserts provide a bright line between  
13 the physical characteristics of our bags and the bags  
14 manufactured by the domestic industry.

15           As a former Customs inspector I can attest that  
16 this is the type of physical difference that would make it  
17 easy for a customs import specialist to distinguish the two  
18 types of bags.

19           The cardboard bottom in our bags is necessary  
20 because the end use of the bags is completely different than  
21 the t-shirt style bags. Cardboard bottom polyethylene  
22 shopper bags are typically used by high-end department  
23 stores to portray an upscale image of the store. The bags  
24 resemble the glossy paper bags traditionally used by fine  
25 department stores except the unique characteristics of the



1 polyethylene enable the store to specify more intricate and  
2 colorful photo quality imagery that is made possible through  
3 rotogravure printing.

4 Polyethylene has a satiny look that accentuates  
5 the colors. The cardboard bottom enables the bag to stand  
6 up on its own and to retain a box-like shape which makes the  
7 elaborate printing more visible to other shoppers in the  
8 mall. Colorful rope handles are often used to provide a  
9 contrasting material and a more upscale look.

10 The overall purpose of a multi-part cardboard  
11 bottom polyethylene retail bag is marketing. The essential  
12 objective is to transform the shopper into a walking  
13 billboard portraying an upscale image of the store. If the  
14 end use of such a bag was simply to carry goods as is the  
15 case with the t-shirt bags then there would be no reason for  
16 these different physical characteristics.

17 Our bags are also not interchangeable with t-shirt  
18 style bags. The cardboard support on the bottom of the bag  
19 enables it to stand up straight and therefore to display the  
20 colorful printing more readily than t-shirt bags. T-shirt  
21 bags have no shape and therefore collapse into a droopy sack  
22 when loaded, obscuring the company's logo or other printing  
23 on the outside.

24 On the other hand, the one-piece design of a t-  
25 shirt bag enables the retailer such as a grocer to

1 efficiently stack a great many such bags on a dispenser for  
2 easy and rapid loading. Such bags can be loaded onto hook  
3 style dispensers of the type typically seen at supermarket  
4 checkout counters.

5 Multi-part cardboard bottom polyethylene bags  
6 cannot be used for this purpose. They are bulky due to the  
7 fact that they incorporate polyethylene film many times  
8 thicker than t-shirt bags as well as one or more cardboard  
9 inserts. A separate handle often of rope also makes bulk  
10 packing more difficult and will not allow the bags to be  
11 speed loaded onto the hook style dispensers that you see at  
12 grocery stores.

13 The term "dispense" is really not appropriate for  
14 a multi-part cardboard bottom bag. Because its chief  
15 purpose is to portray an upscale image of the store most  
16 cardboard bottom bags are provided with a handshake at the  
17 culmination of a one-on-one transaction between a customer  
18 and a sales representative. Again, the objective of such  
19 bags is to portray an image, not to enable the maximum  
20 number of grocery store baggings per hour.

21 The channels of distribution are also different  
22 since our multi-part cardboard bottom bags are sold  
23 predominantly through retail packaging distributors while  
24 many of the t-shirt bags are sold directly to retail grocery  
25 stores.

1           The production processes are very different as  
2 well. T-shirt bags are manufactured on continuous  
3 production lines capable of producing 125 bags per minute.  
4 Most U.S. producers have triple lines which means they can  
5 produce up to 375 bags per minute. This is possible since  
6 there is also no manual labor involved in manufacturing this  
7 type of bag. The typical printing process used domestically  
8 is the basic rubber stamp in-line method that cannot produce  
9 photo quality output.

10           Multi-part cardboard bottom bags require more  
11 segmented, highly labor-intensive production process,  
12 therefore at a much slower rate. The handles and bags are  
13 put together by hand labor, they are either sealed with a  
14 heat press or tied by hand in the case of rope handles. The  
15 typical worker can apply two to four handles per minute  
16 depending on whether they are rope or polyethylene. Some  
17 bags have an additional step where a piece of cardboard is  
18 inserted into the top seam of the bag for additional  
19 support.

20           Because t-shirt style bags involve an in-line,  
21 automated production process manufacturers of this type of  
22 bag do not consider custom orders of less than 100,000 bags.  
23 On the other hand, multi-part cardboard bottom polyethylene  
24 bags are made by using a segmented, multi-machine production  
25 process and hand labor that can accommodate custom orders of

1 as low as 3,000 pieces.

2 Producers and U.S. customers perceive 3 mil multi-  
3 part cardboard bottom polyethylene bags as a separate and  
4 distinct product from the 0006 mil t-shirt style bags  
5 produced by the domestic manufacturer. While both bags are  
6 made from polyethylene the similarities end there. Multi-  
7 part cardboard bottom polyethylene bags incorporate  
8 additional raw materials, especially the cardboard and  
9 sometimes top inserts. The bags often have medium gauge  
10 rope handles or else use a polyethylene trifold handle, both  
11 of which are separately applied.

12 The shape of the multi-part cardboard bottom bag  
13 is designed to better display the retail establishment logo  
14 and to portray a much more upscale image than is the t-shirt  
15 bag. Retail establishments purchasing the bags will  
16 definitely perceive the bags as distinct. The purchase of  
17 the t-shirt style bag is usually more concerned with the  
18 ability to efficiently stack the bags onto hook style  
19 dispensers for easy and quick loading.

20 Grocery stores comprise approximately 95 percent  
21 of the market for t-shirt bags. The grocer would also be  
22 concerned about the capacity of the bags to handle the high  
23 weight of some grocery items such as gallon milk jugs, 2-  
24 liter bottles, etc.

25 A retail establishment purchasing multi-part

1 cardboard bottom polyethylene bags would have completely  
2 different objectives. The bag's capacity is secondary to  
3 its ability to portray an upscale image of the store in  
4 order to positively reinforce the customer's purchase  
5 decision and to turn that customer into a walking billboard  
6 in the shopping mall.

7 A producer would never mistake the two bags. The  
8 presence of the hand-applied handles and the hand-inserted  
9 cardboard supports requires a completely different  
10 production process that is extremely labor intensive.

11 Finally, there is a great disparity between multi-  
12 part cardboard bottom polyethylene bags and t-shirt bags in  
13 terms of average price for the two products. A multi-part  
14 cardboard bottom polyethylene bag is much thicker gauge  
15 polyethylene than a t-shirt bag. This translates into  
16 higher costs.

17 Also, the hand application of the handles and the  
18 cardboard inserts increases the costs. The higher quality  
19 printing used on most multi-part cardboard bottom  
20 polyethylene bags also increased the relative price  
21 different with the t-shirt bags which usually use in-line  
22 printing with rubber plates on flexographic machines.

23 A t-shirt bag might typically sell for 1.5 cents  
24 to an end user. A multi-part cardboard bottom polyethylene  
25 bag with a rope handle on the other hand would typically

1 sell for approximately 30 cents per bag to a distributor and  
2 then for about 50 cents per bag to a retailer. This is more  
3 than 30 times the price of a t-shirt bags.

4 For all of these reasons this is a case where the  
5 Commission should determine that multi-part cardboard bottom  
6 polyethylene bags are a separate and distinct like product  
7 from the other types of bags included within the scope of  
8 this case. There is a clear dividing line between the two  
9 types of products. Our bags do not compete with the  
10 domestic industry's product. Therefore, the Commission  
11 should make a negative preliminary injury determination for  
12 multi-part cardboard bottom polyethylene bags.

13 Thank you for giving me the chance to speak today.  
14 I would be happy to answer any questions the Commission  
15 might have. Thank you.

16 MR. GRIMSON: I think that concludes everybody's  
17 presentation unless somebody at the table has follow-up.

18 MR. CARPENTER: Thank you very much for your very  
19 helpful testimony.

20 For the record, I will accept Mr. James' two  
21 charts as Respondent's Exhibit 1. And those will be  
22 included in the transcript.

23 (Respondent's Exhibit 1 was  
24 marked for identification)

25 Begin the questions with Mr. Reavis.

1 MR. REAVIS: I'll try to keep this short.

2 Mr. Johnson, you were talking about non-price  
3 factors that you used in eliminating bidders, particularly  
4 bidders online.

5 Could you elaborate a little more on what those  
6 factors are?

7 MR. JOHNSON: Sure. I'd be happy to do that.

8 Some of the things that I talked about earlier had  
9 to do with probably a five- or six-phase process that we go  
10 through as part of qualification. We do take the time to  
11 look at the financial stability of a company. There's a  
12 number of ways to do that but that's one effort that we do.

13 Quality control processes whether they have them  
14 in place today, can they demonstrate that they have them?  
15 And more importantly, can they show them to us? We've done  
16 some of those as well.

17 We also require that there be adequate insurance  
18 coverage with our suppliers.

19 We do go through the process of doing benchmarking  
20 to understand other manufacturers' products and where they  
21 are in the market.

22 We do rely on references.

23 And the other thing that has become very important  
24 to us is that we don't want to limit ourselves to one  
25 supplier because of the sheer volume of our bags and so we

1 really work hard to not become overly -- have the buyers  
2 become overly dependent on Target as a customer.

3 And the volume, the volume requirements are really  
4 critical to us. You know, I described earlier that our  
5 volume in total for this year will be 1.8 billion bags. And  
6 I don't know if you can fathom how many bags that is but  
7 it's a tremendous number of truckloads of bags that are  
8 moving through the country. And so we need to make sure  
9 that any supplier that's been qualified really has the  
10 ability to fill those orders.

11 MR. REAVIS: I'm still trying to understand this  
12 like product distinction that all of you are making between  
13 bags that are produced in the United States and other bags  
14 that have these hand finished features or some kind of labor  
15 input.

16 I think some of the features have been identified,  
17 and by features I'm talking about something that all of us,  
18 particularly a Customs agent, could look at and say oh, yes.  
19 There it is.

20 Grommets? Is that one of the features we're  
21 talking about? Definitely that's hand labor. Definitely  
22 you're saying that would not be found in the United States.

23 Let's see. The separately applied handles. That  
24 is something that you are not producing. The plastic  
25 handles appear to be one thing that are not being produced



1 in the United States.

2 MR. GITLEN: That's correct.

3 MR. REAVIS: I have cardboard inserts as being  
4 something that requires labor and you would not find  
5 produced in the United States.

6 MR. GITLEN: That's correct.

7 MR. REAVIS: I'm looking at this drawstring here.  
8 Well, no. It isn't a drawstring. It's a handle.

9 MR. GITLEN: It's knotted as well, which would be  
10 very difficult to do in the United States.

11 MR. REAVIS: So the knotting is something that is  
12 done by a laborer --

13 MR. GITLEN: With labor, yes.

14 MR. REAVIS: -- and would not be found in the  
15 United States.

16 Is there anything to the handle itself other than  
17 the knotting that could not be used in the United States?  
18 For example, there are draw cords on the bags we've seen  
19 made in the United States that are handles in a sense.  
20 That's part of the scope of the investigation. Handles come  
21 in many different --

22 MR. GITLEN: Yes.

23 MR. REAVIS: So is there anything in this  
24 particular product itself, in the drawstring or the rope  
25 itself?

1           MR. GITLEN: There's nothing in the particular  
2 handle that's different. However, there are many different  
3 types of handles. There are rope handles made out of  
4 polypropylene. There are clip loop handles, which you see  
5 on the green or black and white bags which attach by a clip  
6 onto the top cardboard.

7           MR. REAVIS: I saw that.

8           MR. GITLEN: There's also tubular handles --

9           MR. REAVIS: Right.

10          MR. GITLEN: -- which again is knotted. If you  
11 take a look at the back of the bag, it's knotted.

12          All of these bags that we're talking about are  
13 also folded over. They're not flush cut bags. These  
14 foldovers are done by hand, so the application of sealing,  
15 closing and finishing off the bag are all hand finished.

16          MR. REAVIS: That may lead to my next question.  
17 I'm looking to this bag, and I see a lot more pleats in here  
18 that the bags we've seen as examples that are produced in  
19 the United States do not have. Is this something that's  
20 done by labor --

21          MR. GITLEN: Yes, sir.

22          MR. REAVIS: -- to square this off, for example?

23          MR. GITLEN: That's called a bottom gusset. The  
24 bags have two ways of forming. One is the most common,  
25 which is bottom cardboard inserted by hand. The second is a

1 square, heat-sealed bottom which again is a hand operation  
2 that seals the bag in and allows it to open up as a square  
3 bottom, all done by hand.

4 MR. REAVIS: So the fact that it's heat-sealed  
5 does not make it a labor intensive product; the fact that  
6 it's square heat-sealed?

7 MR. GITLEN: Correct.

8 MR. REAVIS: All right. Are there any other  
9 factors anybody wants to add, specific features that would  
10 distinguish this labor intensive product from the automated  
11 product?

12 MR. CREASIS: Well, as far as the bags that you  
13 have on your desk, they're all four-dimensional, which means  
14 they have a width, a side gusset, a height and a bottom  
15 gusset. I'm not certain there are any bags of that type  
16 mentioned by the Petitioners.

17 MR. GITLEN: I would also like to say that the  
18 printing in the side gussets are also different than most of  
19 the bags mentioned here domestically.  
20 T-shirt bags generally are not printed or cannot be printed  
21 on the side gussets.

22 If you take a look at most of the bags you see  
23 there, the graphics are four-sided printing capability,  
24 which is not done here in the United States.

25 MR. REAVIS: Four-sided printing capability?

1           MR. GITLEN: For T-shirt bags, merchandise  
2 checkout bags.

3           MR. REAVIS: Okay.

4           MR. GITLEN: This is why we're asking that these  
5 bags, there is a clear separation of like product and not  
6 used for the same purposes at all.

7           MR. REAVIS: I think I've got a clear indication  
8 of what some of these specific features are.

9           MR. GITLEN: That's good. That's great.

10          MR. REAVIS: Finally, as you know, the Petitioners  
11 used certain percentages of the data that is available from  
12 Census in arriving at what imports from the subject  
13 countries are and what imports are of the subject product  
14 from non-subject countries.

15           I'd invite you to comment on this to the best of  
16 your ability; in fact, challenge it if you will. This is  
17 your opportunity in your post-conference brief. If you have  
18 any dispute with the percentages they used, now is the time  
19 to do it because I don't know if we'll have any better  
20 information for these preliminary investigations.

21           If somebody would like to comment on it now, fine.

22          MR. CANNON: Yes. Earlier in my statement I  
23 commented that I roughly believe 10 percent of our purchases  
24 fall under this category, and I feel that depending on  
25 whether you consider the scope of the shopping bags in it or

1 not in it, you'll find all the other Respondents give you  
2 the same information, a much lower percentage than 75  
3 percent.

4 MR. REAVIS: Right. What we would like to have,  
5 and I'm sure we're going to find differences from importer  
6 to importer, from producer to producer. What would be nice  
7 to have is an estimated figure that is comparable with the  
8 Petitioners' figures, which cover all imports from all  
9 countries. If you could address that, it would be most  
10 helpful.

11 At the same time, I would invite Petitioners to  
12 justify the figures that they used as well. I didn't read  
13 any serious justifications for the figures used in the  
14 petition, so if you would please in your post-hearing or  
15 post-conference brief justify those as best as you can.

16 Thank you.

17 MR. CANNON: One other issue could be we also as  
18 importers and I personally have access to CD-ROMs which are  
19 generated by companies that analyze the imports coming in.  
20 You can look at that statistical category, 3923, and see the  
21 descriptions of the products coming in.

22 You might be able to use that information to  
23 gather whether this is a T-shirt bag or a bread bag, an ice  
24 bag, whatever it may be. You can look at any one month  
25 period and make some kind of a judgment on how much of it is

1 T-shirt bags and from which countries. The data is quite  
2 extensive. PIERS.

3 MR. REAVIS: All right. Thank you. I have no  
4 further questions.

5 MR. CARPENTER: Ms. Chen?

6 MS. CHEN: Irene Chen from the General Counsel's  
7 Office.

8 I'd like to focus on this domestic like product  
9 issue, and I'll ask the same question of Respondents as I  
10 did of Petitioners. What products covered by the scope are  
11 produced in the United States or have been produced by  
12 domestic producers during the POI? Anybody can respond.

13 MR. PERRY: Without a doubt, the T-shirt bags have  
14 been produced throughout the period by the domestic  
15 producers. These are on the automatic machines. Basically  
16 these are the large -- I think capital overhead, everything,  
17 is to produce these kinds of bags on their automatic  
18 machines.

19 I think that what both Jeff Grimson and I are  
20 arguing is that it's these shopping bags, which are not  
21 produced. Again, as Larry was saying, it goes back to  
22 labor. It's not only that they are not produced. We  
23 disagree entirely with the argument of the Petitioners that  
24 they could be produced competitively in the United States.  
25 The labor costs are simply too high.

1           The ones that are produced in the United States  
2       during this period were these T-shirt type bags, which is  
3       most of what they handed out.

4           MS. CHEN: So you're saying that these "high end"  
5       or multi-part, cardboard bottom, polyethylene bags are not  
6       produced by the domestic industry and have not been produced  
7       during the POI?

8           MR. PERRY: Right.

9           MS. CHEN: Now, isn't it true that the Commission  
10      is just supposed to look at the scope that's been defined by  
11      Commerce, meaning that we're not tinkering with the scope.  
12      We just take it.

13          MR. PERRY: You can't touch the scope, but you can  
14      definitely determine separate like products. That's the  
15      argument here is that we have separate like products since  
16      we have a clear dividing line between the two types of  
17      products here.

18          MS. CHEN: But isn't it true the Commission can't  
19      define as domestic like product something that's not  
20      produced in the United States?

21          MR. PERRY: Not necessarily. The issue is not  
22      only that they're not produced. It's that they could not be  
23      produced.

24          I'm not so sure. I mean, the issue is what  
25      happens if they are most similar to, but the point is is

1     there a clear dividing line between products, and there are,  
2     and then is there some product produced by the domestic that  
3     is most similar, too.

4             MS. CHEN: Well, then which domestic producers  
5     would the Commission look at to see if they were injured?

6             Let me back up here. So you're saying then that  
7     something that's not produced in the United States could  
8     still be defined as a domestic like product being produced  
9     by the domestic industry?

10            MR. PERRY: I think it also could be the issue is  
11     -- because it goes to another issue. The issue here is  
12     something else, which the Commission has ruled on before,  
13     and that is whether it is to protect the U.S. industry or  
14     protect industries in other countries.

15            There is a case. If you take a look at the  
16     Silicon Carbide, case, for example, you will notice in that  
17     case the issue was that the three Petitioners, two of them  
18     were Canadians, and they argued that basically they kept  
19     referring to the Canadian industry, and the Commission made  
20     it very clear that they were looking at only the injury to  
21     the U.S. industry, not to the industry in other countries.

22            That's why we're saying these imports are coming  
23     in, but Petitioners we believe probably may be bringing them  
24     in, too, but they're bringing them in from other countries.

25            Should the Commission be in the situation where



1     it's basically taking a scope to protect industries in other  
2     countries? I don't think that's the dumping law because the  
3     dumping law provides that the industry in the United States  
4     is the one that's injured, not the one in Brazil or  
5     somewhere else.

6             MS. CHEN: But if the Commission found a separate  
7     like product for these high end shopping bags, what data  
8     would the Commission look at to see if the domestic industry  
9     had been injured? They're not producing these high end  
10    bags, so how would the analysis work?

11            MR. PERRY: Well, the issue would be how much  
12    would be most similar to if you had to go that route.

13            MR. BOGARD: Ms. Chen, if I could interject for a  
14    just a second? I'm ranging a little far afield because  
15    these are not the kinds of bags that Target is concerned  
16    about, but I believe there have been cases where the  
17    Commission has subdivided the scope of the product as  
18    defined by the Commerce Department into separate and  
19    distinct like products and then determined that several of  
20    those like products, the U.S. industry was not injured  
21    because in fact the U.S. industry had no production or sales  
22    of the product to be injured.

23            If my memory serves me correctly, you may find  
24    some guidance for that in I think it's Circular Welded  
25    Carbon Steel Pipe and Tube From Mexico where I believe

1 certain types of mechanical tubing were found to constitute  
2 a separate like product that was not injured by imports from  
3 Mexico because there was no production in the U.S. That's  
4 done from memory, but I think that might be helpful.

5 MS. CHEN: If you could further brief that in your  
6 post-conference, I'd appreciate it.

7 MR. BOGARD: I'll invite Mr. Perry to further  
8 brief it.

9 MS. CHEN: Absolutely. I'll move on quickly  
10 because we're running out of time.

11 If the Respondents could also address the issue of  
12 related parties if there's any members of the domestic  
13 industry or any domestic producers that should be excluded  
14 as a related party. Also, if you could please address  
15 relevant conditions of competition and also the statutory  
16 threat factors.

17 Finally, Mr. James, you were talking about Thai  
18 producers, and you had given us some information I guess  
19 with respect to price and volume of imports. Are you  
20 arguing that the subject imports should not be cumulated in  
21 this case?

22 MR. JAMES: Well, we would certainly prefer that  
23 the subject imports not be cumulated, but we recognize that  
24 there is probably overlap, but we are still exploring that  
25 in our post-hearing brief. To the extent we can demonstrate

1       that there should not be cumulation, we will do so.

2               MS. CHEN: Okay. I would invite anyone else to  
3       please address cumulation issues.

4               Thank you. Nothing further.

5               MR. CARPENTER: Mr. Thomsen?

6               MR. THOMSEN: Craig Thomsen, Office of Economics.

7               First I just wanted to ask to make sure that  
8       everyone does submit their prices on a per thousand bag, the  
9       quantity data for the six different classes, because we have  
10      had quite a number of differences in averaging the value  
11      that we've been having, so just please be sure and go over  
12      your numbers again to make sure that they are correct.

13              Mr. Gitlen, one question for you. When you were  
14      delineating the differences between the high end bags and  
15      the T-shirt bags, you said that T-shirt bags are sold  
16      through distributors, and the higher end multi-part bags are  
17      sold through retail packaging distributors.

18              MR. GITLEN: Yes.

19              MR. THOMSEN: What is the difference there?

20              MR. GITLEN: Well, by and large there are  
21      distributors through the United States which call on the  
22      specialty shops retail packaging people, people who own  
23      apparel stores and sporting goods stores and non-food  
24      related stores, which gets involved in retail packaging.

25              There is in fact an association, the RPMA, the

1     Retail Packaging Merchants Association. This separates  
2     itself from a food service distributor who may call on  
3     supermarkets and delis and restaurants selling them cups,  
4     spoons, forks, knives and T-shirt bags for takeout or for  
5     check out.

6             MR. THOMSEN: So would someone such as a Wal-Mart  
7     be calling the food distributor, or would they be calling  
8     the retail packaging distributor?

9             MR. GITLEN: Wal-Mart itself might be a retail  
10    packaging. Actually, Wal-Mart is probably something that  
11    would be a direct sell and not through a distributor.

12            MR. THOMSEN: I mean someone smaller that does not  
13    sell food. I'm trying to think of --

14            MR. GITLEN: If it were a small specialty shop, it  
15    would probably be called on by a retail packaging  
16    distributor.

17            MR. THOMSEN: Okay. Thank you.

18            Mr. James, I have one question regarding your  
19    graph here. It seems like there are two different countries  
20    here, and there are two different scales on either side.

21            What scale refers to which country, and in the  
22    absence of that answer if you want to resubmit this so that  
23    it's all on the same scale so it's comparable, that would be  
24    helpful to us.

25            MR. JAMES: Okay. We will do that for our post-

1 conference brief.

2 MR. THOMSEN: Thank you.

3 MR. JAMES: The purpose of this graph was merely  
4 to demonstrate the discrepancies between the two countries,  
5 and we felt that it was clearer that way.

6 MR. THOMSEN: Sure.

7 MR. JAMES: The one you're pointing to is  
8 Thailand.

9 MR. THOMSEN: Okay. That's what I figured. I  
10 just wanted to make sure that that was clear.

11 MR. JAMES: Okay. Yes. Thank you.

12 MR. THOMSEN: Okay. Thank you.

13 One other question that I have is for anyone here.  
14 Do any of the retailers use both a T-shirt style bag and a  
15 more upscale, multi-part bag?

16 I'm pretty sure that Target only uses the  
17 T-shirt bag. Is that correct, Mr. Johnson?

18 MR. JOHNSON: For the Target store locations, that  
19 is correct.

20 MR. THOMSEN: Okay. Do you use them I guess for  
21 your Marshall Fields and your Mervin's type stores? You use  
22 the more upscale type bag?

23 MR. JOHNSON: Yes. The upscale bag is used at the  
24 Marshall Fields location, and Mervin's uses a bag very  
25 similar to what's used at Target.

1           MR. THOMSEN: Okay. I'm thinking kind of on the  
2 line I saw you have a Macy's bag there, more upscale, Mr.  
3 Creais. Does Macy's also use the T-shirt bag for some of  
4 their smaller purchases, or do smaller purchases only go in  
5 the bigger bag?

6           I'm also thinking of a Sears, a J.C. Penney. I  
7 believe we saw a Sears bag earlier from Petitioners. Do  
8 they use any of the upper scale, the multi-part bags?

9           MR. CREAIS: I can't recall. Macy's uses this  
10 style bag plus a smaller bag with a handle, and I'm sure  
11 they use a variety of other packaging, depending on, you  
12 know, it could be for their Macy's Basement or whatever it  
13 is. For their food items they could be using a T-shirt bag.  
14 I don't really know.

15          MR. THOMSEN: Okay.

16          MR. CREAIS: It's certainly possible.

17          MR. THOMSEN: Go ahead.

18          MR. GUIDO: I was going to add to that that it's  
19 extremely unusual to find these upscale bags used in  
20 conjunction with Ts. Usually it's one or the other.

21          Typically if a retailer is interested in using an  
22 upscale bag, but they're using a high-end T-shirt bag, what  
23 they'll do is make that bag available for sale, like you can  
24 buy it for a quarter and take it with you more as a status  
25 type walking around bag other than a bag for functionality

1 to get the product out of there.

2 MR. THOMSEN: Would that be another point of  
3 differentiation between the two?

4 MR. GUIDO: Well, I was going to add to Ms. Chen's  
5 question. I think you were trying to figure out how to  
6 parse this group from Commerce's definition, how to pull it  
7 apart or if it was possible to parse the group.

8 You know, I would submit that perhaps the best way  
9 to do that is to take a look at the predominant production  
10 of the five Petitioners, which is T-shirt bags. I mean,  
11 there's a very distinct -- I think they've defined the  
12 market, frankly.

13 I mean, there is a very distinct line between T-  
14 shirt bags, commodity bags, running a mile a minute as fast  
15 as you can make them, as soon as you can make them, not  
16 really worrying about, you know, how good it looked, et  
17 cetera, and this whole other category of bags.

18 I think you can see that not only in the  
19 production of them and how the factory set up here and,  
20 quite frankly, how they don't set up here too in some of the  
21 upscale cases and how they're used at the retail level.  
22 Very rarely do you find two used in conjunction with each  
23 other at the same checkout.

24 I think that would be a wonderful way to split it,  
25 but I don't. I don't know what the rules and regulations

1 are on how you -- I don't know what Commerce does and how  
2 they split that or if it's parseable.

3 MR. PETERSON: Mr. Thomsen, if I may add an  
4 additional comment about the Marshall Fields location?

5 As we talk about the upscale type of bag, it's  
6 usually an event type of bag that we would do that type of  
7 bag. For the most part, the Marshall Fields locations use a  
8 paper bag.

9 MR. THOMSEN: Right. Actually, I was aware of  
10 that, but thank you.

11 Did anyone else want to add anything? If not, I  
12 just have one further request to make of all parties here,  
13 and it's actually the same request that I had made of  
14 Petitioners earlier to try and get a breakout of the  
15 different types of bags that you are importing and selling,  
16 whether they be, you know, the oval cut hatch handle,  
17 general T-shirt, et cetera, et cetera, you know, by year in  
18 kind of a tabular form like I had described earlier.

19 That's all the questions that I have.

20 MR. CARPENTER: Mr. Yost?

21 (No response.)

22 MR. CARPENTER: Is there another party who wanted  
23 to testify in opposition to the petition in the audience?

24 Would you please come forward? This gentleman  
25 over here is giving his seat to you. Could you turn on the



1 microphone, please?

2 MR. VERRIER: Most of what I was going to say has  
3 already been said by a lot of my colleagues. My name is  
4 John Verrier. I'm the managing general partner of Regal  
5 Import Packaging. I want to thank the Commission for giving  
6 me the time to speak here today and looking for me again  
7 when I wasn't available.

8 I took the liberty of writing down some notes  
9 because what I wanted to say has already been said by my  
10 colleagues, and I wanted to kind of -- I've got the wrong  
11 sheet. I don't have what I wanted to say.

12 The only thing that my colleagues have not told  
13 you about that I think is important is my company is a small  
14 company certainly by the counsel for the Petitioners when he  
15 called it peanuts. We do about \$14,000,000 in imports,  
16 plastic bags.

17 When I looked at the Petitioners and I read their  
18 names, the five of them, and Ampac was not on the original  
19 list of Petitioners, I have never competed on a piece of  
20 business with any of those companies. We just don't compete  
21 with those.

22 To the best of my knowledge, and I don't know  
23 everything about them, they produce T-shirt bags. We do not  
24 produce T-shirt bags. We produce the bags that you've seen  
25 already with handles that you've been talking about with

1 different styles, with ropes.

2 The other thing that I did want to point out that  
3 I haven't heard yet, the other thing that makes us much more  
4 competitive in what we do and to the distributors that we  
5 sell to is we do a tremendous amount of small run bags. I'm  
6 pretty sure that Sonoco or Vanguard is not looking for a  
7 5,000 run bag.

8 My office and the people in my office and the art  
9 people in my office and the people that work there spend all  
10 day making sure the mom and pop store in Ohio or in Kansas  
11 or whatever, you know, gets the bags that they want too,  
12 5,000, whether it's a patch handle, which we do a lot of,  
13 whether it's a die cut, which we don't do that many of, but  
14 certainly more and more of the shopping bags.

15 This is a large run shopping bag that absolutely  
16 none of the Petitioners have ever thought about producing.  
17 This is what they might say is a drawstring bag. You  
18 alluded to before that, yes, the drawstring bag can be made  
19 automatically and in fact is made automatically here in the  
20 states, but this is a shoulder tote bag which is not made  
21 that way. This is also a 10,000 bag run, which we do  
22 hundreds of orders every month of a 10,000 bag run.

23 Domestic manufacturers between setup, between  
24 cleaning off your plates, between changing your plates, do  
25 not want to do this. A good bulk of our business is that.

1 Now, how that falls under the same tariff code as what  
2 Sonoco does and Vanguard does and Interplas does and the  
3 original Petitioners that I saw on that list I have no idea.  
4 I have never competed on a piece of business with them in my  
5 life.

6 We are a small company certainly by their  
7 standards, but I know some of the other people sitting at  
8 this table and I know some other people who are not do  
9 basically what I do, and certainly over \$100,000,000 of this  
10 type of bag. A lot of them, some of them even more so than  
11 I, do 5,000 custom printed bags, 2,000 custom printed bags.  
12 These bags are not going to be run by domestic  
13 manufacturers.

14 The balance of my presentation would have been  
15 basically what Mr. Creais talked about, which was that we  
16 are advertising. That's what we sell. We do have some high  
17 end end users. The bag in my hand is one of our larger  
18 customers. I'm pretty sure none of the Petitioners want to  
19 compete with me tomorrow on making this bag domestically.  
20 It's not feasible.

21 You talked about cents per pound. I did a  
22 calculation on this bag. We sell this bag for \$2.65 per  
23 pound. I'm, of course, just talking about the polyethylene  
24 used. If any of the Petitioners could sell a couple of  
25 truckloads of their T-shirt bags for \$2.65 a pound, I'm sure

1 they'd be glad to do it. It is a different product  
2 entirely.

3 Between that and the small run that we talked  
4 about, which is, you know, 40 or 50 percent of our business  
5 when we talk about retail distributors. The retail  
6 distributors are all over the street. They're going into  
7 the mom and pops in every town, in every town in the USA.  
8 That is a big portion of my business as an importer.

9 Yes, we get some large accounts like in my hand.  
10 Yes, we get some other large accounts, but all of those are  
11 based on what you talked about before -- the grommets, the  
12 handles, the other situations.

13 One more thing on the distributors. Even for the  
14 large accounts, whether it's the account that I just held  
15 up, J. Crew, or some of the other what we would call a mall  
16 account, they need a different distributor. Wal-Mart does  
17 not need a distributor. Shop-Rite does not need a  
18 distributor. Publix does not need a distributor.

19 Petitioners sell directly to these people. We  
20 have to sell these to a distributor. If I'm selling these  
21 bags to J. Crew that I just held up, they can't take 10  
22 pallets of bags into their store in the mall, but if I can  
23 find a distributor who sells to eight other stores in that  
24 mall then the logistics, the distribution makes sense. That  
25 distributor has five, six, seven customers in the mall.

1 We're selling them a totally different product. It's a much  
2 higher end product.

3 The gentleman from Amco advised that he was on the  
4 higher end of these PCRBS. I'll guarantee you I sell my  
5 bags for more than he sells his for.

6 MR. CARPENTER: Thank you, Mr. Verrier, for your  
7 comments.

8 MR. VERRIER: Thank you.

9 MR. CARPENTER: I just had one quick followup for  
10 you, Mr. Perry. You made the statement that other bags such  
11 as polypropylene and paper bags are substitutable with the  
12 subject merchandise. Were you arguing that those should  
13 also be included in the like product?

14 MR. PERRY: Go to the high end. The other thing  
15 is we were just talking. I understand that the paper high  
16 end shopping bags are produced in the United States.

17 MR. CARPENTER: Okay.

18 MR. PERRY: That may be the most similar product.  
19 In other words, once you've got these bags included, all of  
20 a sudden other products become competitive with it which are  
21 produced in the United States, and that could be your  
22 alternative industry.

23 MR. CARPENTER: I would just ask then of each of  
24 the parties represented here that in your post-conference  
25 briefs if you could explain your like product position,

1 particularly if it's different from the scope of the  
2 investigation and in doing so do it in the context of the  
3 six factors that the Commission traditionally looks at.

4 I believe that completes the staff's question. We  
5 will take a short recess of about five minutes, at which  
6 time, Mr. Dorn, if you would come forward and making your  
7 closing statement?

8 Thank you.

9 (Whereupon, a recess was taken from  
10 1:18 p.m. to 1:24 p.m.)

11 MR. CARPENTER: Mr. Dorn, please proceed. If  
12 everyone could take a seat, please?

13 MR. DORN: Thank you. Let me begin with the like  
14 product issue. The Respondents' like product argument is  
15 really missing the boat because they're focusing at the low  
16 end of the continuum, the T-shirt and grocery bags, and the  
17 high end of the continuum, what they call the upscale bags  
18 with cardboard bottoms.

19 What happens to all the bags in between? There's  
20 a continuum going from the simple T-shirt bag up to the  
21 highest price point at the upper end of the continuum,  
22 There is no clear dividing line.

23 If you look at the samples that we handed up  
24 earlier, we just didn't hand up T-shirt sacks. We have  
25 bags, merchandise bags which are involved in bagvertising,

1     you know, promoting the logos and store names, you know,  
2     with multiple colors, very stylish bags with oval handles,  
3     round handles, patch handles, both smooth patch and heat-  
4     sealed, foldover handles, wave top handles, draw tapes,  
5     drawstrings, soft loop handles, one with a draw cord and  
6     shoulder tote.

7             The point is that across that continuum there are  
8     bags that are of varying design features and quality, but  
9     there's no clear break in that continuum. You know, you  
10    just can't focus on this very, very upper end and the very  
11    lower end and ignore everything in between.

12            I'm not aware of any ITC precedent where the  
13    Commission has divided the like product on the basis of a  
14    product that has some handmade features versus other  
15    products that do not have handmade features. I just don't  
16    think there's any precedent for such a division of the like  
17    product.

18            As Ms. Chen stated, to be a domestic like product  
19    you don't have to be identical to the imported product. You  
20    have to be most similar in physical characteristics, so to  
21    the extent there is not an exact domestic like product or  
22    domestic product, an exact product being made in the United  
23    States, it doesn't mean that's not a domestic like product  
24    in terms of the statute.

25            There is competition between T-shirt sacks and

1 other merchandise bags all along the continuum. We showed  
2 some samples of some T-shirt sacks that are made by Ampac  
3 which are, you know, very high scale, very fine printing,  
4 and they're competing with other types of designs and so  
5 forth. The T-shirt sacks are not all at the bottom of the  
6 continuum. They also go up the continuum.

7 Let me say a word about resin prices. There's an  
8 allegation that the cost differences are about 25 cents per  
9 pound. Does that make any sense at all? What would our  
10 clients do if the spread was like that? They'd just import  
11 the resin.

12 As Mr. Varn said, there's been a fairly consistent  
13 spread of about five cents a pound, which goes well beyond  
14 the period of this investigation. In the past, you know,  
15 we've been able to compete with the imports.

16 You have to keep in mind, this is not a safeguards  
17 case. This is a dumping case. We're not talking about  
18 comparative advantage here. I mean, if in fact the Asians  
19 did have that much of an advantage as a result of lower  
20 resin costs, would they need to dump?

21 The point that the Commission needs to look at in  
22 this case is would they have been competitive in the United  
23 States? Would they have gained market share so rapidly had  
24 they not dumped? If you eliminate the margin of dumping,  
25 which is very, very high for each of the three subject



1 countries, would they have been able to take market share  
2 away from these U.S. producers? Would they have been able  
3 to force down the prices of these U.S. producers? Of course  
4 not.

5 Now, Mr. Johnson testified about so-called non-  
6 price factors. I found his testimony very interesting. I  
7 think he admitted that the non-price factors are taken care  
8 of during pre-qualification. I mean, he testified that he  
9 had to make sure that all the bidders met the minimum  
10 standards that Target required, and they're very high  
11 standards, the second largest retailer in the country.

12 The Thais qualified, the Chinese qualified, and  
13 some U.S. producers qualified, so at that point they're all  
14 even. After that, once the auction process starts what are  
15 they competing on? They're competing on price.

16 I find it extremely interesting and helpful to our  
17 case that Mr. Johnson said that he only received token bids  
18 from U.S. producers. Well, let's think about that a minute.  
19 We'll provide some confidential information on how the  
20 bidding process went and how the incumbents lowered their  
21 prices substantially from the prices they were charging.  
22 Target in the prior year participated in the process of this  
23 bid, but they weren't going to go below their cost of  
24 production.

25 The Chinese and Thais went so low and so far below

1 the U.S. bid that to Mr. Johnson the U.S. bids were just  
2 token bids, and that just demonstrates the high margin of  
3 price underselling by the imports.

4 Now, I also don't understand the argument on  
5 quality. If the imports are of higher quality, as has been  
6 suggested, then why would they need to undersell the  
7 domestic product? They are underselling by large margins.  
8 If they were higher quality, they could sell at the same  
9 price or even a higher price.

10 Again, this is a dumping case. The purpose of the  
11 law is to eliminate the unfair advantage that they have as a  
12 result of the dumping. All we're asking to do is have the  
13 margin of dumping eliminated with antidumping duties. Let's  
14 do that. Then we'll have a fair competition and see who  
15 wins the business.

16 The last thing I'd like to mention is the surge in  
17 imports in 2003. Didn't you find Mr. Perry a little  
18 defensive about that? I mean, he made a point about the  
19 surge in imports in the first quarter of 2003, and he tried  
20 to explain it away.

21 Well, you know, this is not a surge in imports in  
22 2003 that's followed a level of flat imports from 2000-2001.  
23 There was a big increase in imports from 2001 to 2002, and  
24 that's quickly followed by a surge in imports in the first  
25 quarter of 2003, which continued into April, based upon the

1 latest import data.

2 As these clients have testified, they are right  
3 now suffering material injury because of this surge in  
4 imports. They've said that their financial results are  
5 going to be worse in all of 2003 than all of 2002. The data  
6 that you have before you will show that their results in the  
7 first quarter of 2003 are much worse than in the first  
8 quarter of 2002. That downfall in their profits is  
9 correlated exactly with a surge in imports that Mr. Perry  
10 admits is taking place right now.

11 My real final point. Who has been here to oppose  
12 us today? I mean, it's really been 90 percent of the  
13 discussion from the Respondents have been with respect to  
14 importers' products at the upper end of the continuum. That  
15 product constitutes a very, very negligible percentage of  
16 the imports at issue.

17 What's interesting is where have all the other  
18 importers been? Where have the other foreign producers  
19 been? They haven't been here to deny our allegations of  
20 underselling and of taking sales away from us and forcing  
21 prices down in the United States. Those are the data that  
22 the Commission are going to rely upon in reaching an  
23 affirmative preliminary determination.

24 Thank you.

25 MR. CARPENTER: Thank you very much, Mr. Dorn.

1           Would counsel for the Respondents please come  
2 forward now?

3           MR. BOGARD: Hello again. For the record, this is  
4 Lawrence Bogard from Neville Peterson. A couple of brief  
5 points in response to some of the things Petitioners have  
6 said.

7           I think one of the key points to take away from  
8 Mr. Johnson's testimony this morning is that while  
9 Petitioners often use the phrase that the imported products  
10 were perfect substitutes or almost perfect substitutes for  
11 the domestic product, I think Mr. Johnson's testimony  
12 demonstrates that there is no substitution of product,  
13 perfect substitution of product either in the economic sense  
14 or in the laymen's sense.

15           The thrust of Mr. Johnson's testimony was that  
16 Target has had to turn to offshore suppliers in order to  
17 obtain the quality of bag product that is necessary for  
18 Target to have in their stores. They simply couldn't get  
19 that quality from domestic manufacturers, so the  
20 substitution issue is more complicated than perfection.

21           Mr. Dorn asked a couple of questions with respect  
22 to the internet auctions. He first disparaged the concept  
23 that the domestic manufacturers simply made token bids  
24 during the auction, suggested that's because the prices from  
25 the imported products dropped so far so rapidly that the

1 domestic manufacturers couldn't compete.

2 The reality of the auction is that this took place  
3 over a period of time. The domestic manufacturers submitted  
4 their one or, in a couple of cases, maybe two bids in the  
5 first four or five minutes of the auction and then withdrew  
6 from the auction, leaving the imported producers to continue  
7 with the auction.

8 Mr. Dorn then asked rhetorically why if the  
9 quality of the imported product is so much higher than the  
10 domestic product are the prices lower, and the answer to  
11 that is that the imported producers continued to compete  
12 against each other, having established their quality, while  
13 the U.S. producers withdrew to the sideline, presumably  
14 because they could not meet the quality standards for Target  
15 at an acceptable price.

16 Those are my rebuttal comments. Thank you.

17 MR. JAMES: Yes. This is Dennis James. I would  
18 like to echo what Mr. Bogard has said.

19 I don't want the Commission or the staff to lose  
20 sight of our arguments because you heard a lot about the  
21 high end product, but our point was that even at the T-shirt  
22 bag level there is a significant quality difference between  
23 the imported products and the domestic product.

24 You heard that the product has to fit on a  
25 standard sometimes and be pulled off. It is essential that

1 the right size and fit be there. Otherwise it will jam and  
2 it will not work, so it is essential that companies like  
3 Target and other companies get a quality product that they  
4 want. I believe that Target does pay more for its quality.  
5 The Thai prices, as we indicated, are continuing to increase  
6 and, as you heard, Thailand is supplying Target.

7 I would also like to remind you that Petitioners  
8 did import in years past. They brought a lot of this on  
9 themselves, and then when the internet auctions came along  
10 that eliminated the middle man, and the Petitioners lost  
11 their sales of the imports.

12 Finally, I would like to point out that Mr. Dorn  
13 suggested that nobody was here on behalf of the T-shirt bag  
14 people. We are certainly here. As Woody Allen said, 90  
15 percent of life is showing up, and we have shown up.

16 With respect to Mr. Dorn's comment that nobody is  
17 here to deny that the issues relate to T-shirt bags, we are  
18 certainly here, and Thailand denies that it is undercutting  
19 the prices of the U.S. producers.

20 Thank you.

21 MR. PERRY: Yes. I would first like to echo Mr.  
22 James' point, Frank Cannon's testimony, Rob Guido's  
23 testimony and to some extent James Leu's testimony.

24 We are here on behalf of the Chinese exporters,  
25 and many of them are exporters of T-shirt bags. Frank

1 Cannon, for instance, his primary business is T-shirt bags.  
2 It is not in the shopping bag area.

3 In the shopping bag area, there's a question here.  
4 The question is what product is most similar to the imported  
5 shopping bags? We don't believe there's a continuum. We  
6 believe there's a bright dividing line. We think there are  
7 two producers that are more similar, Durabag and Ampac.

8 In fact, what happened was that Neimann Marcus,  
9 one of these companies over here, lost the sale of a  
10 shopping bag not to a T-shirt bag manufacturer, but to  
11 Durabag, who sold paper shopping bags. In other words, the  
12 paper shopping bags compete more closely with the high end  
13 polyethylene shopping bags than the T-shirt bags do, and we  
14 believe that that's where the clear dividing line is.  
15 There's no competition between the two.

16 Regarding the price, the differences in price in  
17 the resin, we'll file in our post-conference brief the data.  
18 The data show that there's a substantial difference in  
19 price. The difference in raw material costs is certainly an  
20 alternative cause of injury.

21 Regarding two-thirds and three, we said any surge  
22 in imports could be counted by the three unusual events. We  
23 don't even know what the imports are. We're all guessing.  
24 Seventy-five percent? Ten percent? Fifteen percent? We  
25 don't know, but we believe that any surge in imports, any

1 surge if there is one, would be accounted for by three very  
2 unusual events.

3 Mr. Dorn mentioned rising imports through April.  
4 Remember the change in freight cost was May 1, which was a  
5 \$1,000 increase in the container charge.

6 Thank you very much.

7 MR. GRIMSON: Jeff Grimson from Grunfeld  
8 Desiderio.

9 At the risk of beating a dead horse on this like  
10 product issue, I would just disagree with what Mr. Dorn  
11 characterized as a seamless continuum of polyethylene retail  
12 carrier bags.

13 We spent the whole day almost on the Respondents'  
14 side, with the exception of Mr. James, giving you testimony  
15 on each of the six of the Commission's like product factors,  
16 and one in particular really is the bright line in my mind,  
17 and that is the cardboard insert.

18 That cardboard insert is a physical difference, a  
19 raw material difference that is the result of the bags'  
20 different end use. By having the hand inserted cardboard  
21 raw material in there, you're implicating a completely  
22 different production methodology, and they also discussed  
23 here today a different channel of distribution, and the  
24 price is wildly different.

25 You did not hear any of the company



1 representatives this morning complaining about injury due to  
2 the kind of bags that we're discussing here. You heard  
3 their counsel discuss this continuum, but when you get right  
4 down to it they're not complaining about our kind of bags.

5 I do not think that the like product analysis  
6 should be performed in a way that results in dumping duties  
7 on a product that nobody is here complaining about. That  
8 would really be perverse, and this is not about pumping up  
9 the bird money. You'll have Petitioners bringing cases to  
10 you with very broad, ridiculously broad scope, and there  
11 really has to be some sanity here in this analysis. Our  
12 clients came to us and said we can't even believe that we're  
13 in this case. Why are we here at this table? We're in a  
14 different industry entirely.

15 They might call it a seamless continuum, but we're  
16 on different planets. We would ask you if there's ever a  
17 case where there's a clear and convincing dividing line  
18 here, this is one that's really appropriate for a negative  
19 preliminary injury determination on the types of bags that  
20 we're discussing. It's a different industry.

21 Thanks.

22 MR. CARPENTER: Thank you for those comments,  
23 gentlemen. I have just a few concluding remarks.

24 For those of you who are on the APO service list,  
25 there should be an APO release available this afternoon, so

1     you might want to stop by the Secretary's office on your way  
2     out and see if it's ready for pickup.

3             The deadline for both the submission of  
4     corrections to the transcript and for briefs in the  
5     investigation is Wednesday, July 16. If briefs contain  
6     business proprietary information, a non-proprietary version  
7     is due on July 17.

8             The Commission has scheduled its vote on the  
9     investigation for August 4 at 1:00 p.m. It will report its  
10    determinations to the Secretary of Commerce later that day.  
11    Commissioners' opinions will be transmitted to Commerce a  
12    week later on August 11.

13            Thank you for coming. This conference is  
14    adjourned.

15            (Whereupon, at 1:47 p.m. the preliminary  
16    conference in the above-entitled matter was concluded.)

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**CERTIFICATION OF TRANSCRIPTION**

**TITLE:** Polyethylene Retail Carrier Bags  
**INVESTIGATION NO.:** 731-TA-1043-1045  
**HEARING DATE:** July 11, 2003  
**LOCATION:** Washington, D.C.  
**NATURE OF HEARING:** Preliminary Conference

I hereby certify that the foregoing/attached transcript is a true, correct and complete record of the above-referenced proceeding(s) of the U.S. International Trade Commission.

**DATE:** July 11, 2003

**SIGNED:** LaShonne Robinson  
Signature of the Contractor or the  
Authorized Contractor's Representative  
1220 L Street, N.W. - Suite 600  
Washington, D.C. 20005

I hereby certify that I am not the Court Reporter and that I have proofread the above-referenced transcript of the proceeding(s) of the U.S. International Trade Commission, against the aforementioned Court Reporter's notes and recordings, for accuracy in transcription in the spelling, hyphenation, punctuation and speaker-identification, and did not make any changes of a substantive nature. The foregoing/attached transcript is a true, correct and complete transcription of the proceeding(s).

**SIGNED:** Carlos Gamez  
Signature of Proofreader

I hereby certify that I reported the above-referenced proceeding(s) of the U.S. International Trade Commission and caused to be prepared from my tapes and notes of the proceedings a true, correct and complete verbatim recording of the proceeding(s).

**SIGNED:** Gabriel Rosenstein  
Signature of Court Reporter